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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

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FRANK DOMINIC DUNDEE,

Plaintiff,

vs.

Case No. 1:19CV01141

UNIVERSITY HOSPITALS

CORPORATION, et al.,

Defendants.

~~~~~

Deposition of

FRANK D. DUNDEE

March 10, 2020

9:30 a.m.

Taken at:

7707 Amberwood Trail

Boardman, Ohio

Cynthia Sullivan, RPR

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2
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1 FRANK D. DUNDEE, of lawful age, called
2 for examination, as provided by the Federal
3 Rules of Civil Procedure, being by me first
4 duly sworn, as hereinafter certified, deposed
5 and said as follows:

6 EXAMINATION OF FRANK D. DUNDEE

7 BY MS. ISRAEL:

8 Q. Good morning, Mr. Dundee.

9 A. Good morning, Rachael.

10 Q. As you know, I represent University
11 Hospitals Geauga Medical Center in the lawsuit
12 that you filed against that hospital, and I'm
13 going to be taking your deposition today.

14 Have you ever had your deposition
15 taken before?

16 A. No.

17 Q. Have you ever testified under oath
18 before in any format?

19 A. Yes.

20 Q. Tell me about that.

21 A. It was in an arbitration hearing,
22 maybe several of them, that I had to testify
23 under oath. I was an officer in a labor union.

24 Q. The deposition that you're going to
25 be giving today is under oath as you know. You

1 were just sworn in. It may look like a
2 conversation, but it's different than a normal
3 conversation in a few important ways. One way
4 that it is different is that you must answer
5 verbally. A shake of the head or uh-huh or
6 uh-uh is not easily transcribed by our court
7 reporter here, so try to remember to say yes,
8 no, or answer verbally.

9 Secondly, you are under oath, as I
10 mentioned, so that's different than a normal
11 conversation. Thirdly, a normal conversation
12 is a two-way street. This deposition is more
13 of a one-way street. I'll ask questions, and
14 you will answer them. Do you understand that?

15 A. I do.

16 Q. Do you have any questions before we
17 get started?

18 A. No.

19 Q. Do you currently have any
20 disabilities?

21 A. Yes.

22 Q. What is your disability?

23 A. I have a motor -- upper motor
24 neuron disease called hereditary spastic
25 paraplegia.

1 Q. Is that disability a part of this
2 lawsuit?

3 A. It is not.

4 Q. Does this case here involve any
5 claims of discrimination relating to that
6 disability?

7 A. It does not.

8 Q. This case does not involve any
9 claims of failure to accommodate with regard to
10 that disability, correct?

11 A. It does not.

12 Q. There is no allegation in this case
13 that University Hospitals failed to engage in
14 the interactive process with regard to that
15 disability; am I right?

16 A. Correct.

17 Q. The first claim in your complaint
18 is for retaliation in violation of Title VII;
19 is that correct?

20 A. Yes, that is.

21 Q. What protected activity did you
22 engage in?

23 A. I filed a sexual harassment charge
24 against my immediate supervisor.

25 Q. Who was that?

1 A. Rachael Lerman.

2 Q. I'm going to hand you what I've
3 marked as Defendant's Exhibit 1.

4 - - - - -

5 (Thereupon, Deposition Exhibit 1, a
6 Document Bates Labeled UH-Dundee
7 0108, was marked for purposes of
8 identification.)

9 - - - - -

10 A. I'll take that.

11 Q. Do you recognize that document?
12 Take a few minutes if you'd like to look over
13 it.

14 A. I'm ready.

15 Q. Do you recognize that document?

16 A. Yes, I do.

17 Q. What is it?

18 A. It was my charge that I sent to HR
19 representative Rebecca Besselman.

20 Q. That was of?

21 A. Sexual harassment.

22 Q. This email is dated June 23rd,
23 2016; is that correct?

24 A. Yes, it is.

25 Q. Does that fit your recollection of

1 when you first reported your charge of sexual
2 harassment to University Hospitals HR?

3 A. I'm not sure. I'm not sure if that
4 is the exact first thing.

5 Q. Do you think there might have been
6 a report that occurred prior to this email?

7 A. I'm not sure.

8 Q. You can set that aside.

9 A. Sure.

10 Q. Who retaliated against you for
11 reporting the sexual harassment?

12 A. It was Jason Glowczeski and
13 Danialle Lynce.

14 Q. Was there anyone else that you can
15 think of?

16 A. Not at this moment I can't think of
17 anyone else.

18 Q. What did Jason do to retaliate
19 against you for reporting the sexual harassment
20 complaint?

21 A. He threatened me with discharge at
22 a meeting.

23 Q. Do you recall the date of that
24 meeting?

25 A. It was August 5th, 2016.

1 Q. Did he actually discharge you?

2 A. He did not. He threatened me.

3 Q. Did he do anything else that you
4 view as retaliation for engaging in your
5 protected activity?

6 A. Could you clarify that statement,
7 please?

8 Q. Sure. You identified Jason and
9 Danialle as two people who retaliated against
10 you for engaging in protected activity. I'm
11 asking what did Jason do that in your mind
12 constitutes retaliation.

13 A. It was his threats. It was his
14 threats that I perceived as being a material
15 adverse action.

16 Q. He threatened to terminate you?

17 A. That is correct.

18 Q. What exactly did he say as best as
19 you can recall?

20 A. I think that that is documented in
21 several documents as to what he said, and I
22 think that you have them already, and I would
23 say that those documents are the most accurate
24 description of what transpired at the time.

25 Q. I understand that. Can you tell me

1 as you sit here today what you recall?

2 A. What I recall of that meeting?

3 Q. What you recall regarding Jason's
4 threats to you.

5 A. I recall Jason having a time and
6 attendance exception sheet, or at least I was
7 told that's what he had in his hand because I
8 was never presented with it, and he stated that
9 if I ever wrote another note on a sheet like
10 that or any type of note going forward, that I
11 would be subject to termination.

12 Q. Did he specify the nature of the
13 note or the tone of the note that he did not
14 want you to make in the future?

15 A. He did not.

16 Q. What did Danialle Lynce do to
17 retaliate against you?

18 A. Ms. Lynce had a pile of records
19 from my personnel file on her desk in front of
20 her, and she read from various statements that
21 I had made in past addendums to disciplines or
22 to evaluations that were substandard that were
23 realtime replies to my -- to whatever the
24 discipline was or the substandard evaluation,
25 and she picked sentences out of context, read

1 them to me, and said that if I ever made
2 statements like that again, I would be
3 terminated.

4 Q. Other than that, did she do or say
5 anything else that you view as retaliation?

6 A. Once again, the most accurate
7 description is in the documents that I did in
8 realtime. As soon as the meeting was over, I
9 went out to my car, I had a notebook in there,
10 and I started writing down, and I think it was
11 19 points I came up with, each one of those
12 19 points, and I tried to put the exact time
13 that I put them in.

14 I came home with that, and I
15 immediately transcribed it to an email that I
16 sent to the attorney that I was consulting on
17 my sexual harassment charge. So those are the
18 most accurate documents, and, once again, they
19 are in your possession.

20 Q. I understand and appreciate that,
21 and I'm going to be asking you a number of
22 questions today without those documents in
23 front of you. What I'd like you to do is try
24 to focus on what your best recollection is as
25 you sit here today. I appreciate that there

1 are documents that we could consult and we may
2 consult, but unless I ask you to refer to a
3 document, what I'm just looking for is your
4 best recollection today. Do you understand?

5 A. Yes, I understand.

6 Q. Is there anything else that you can
7 think of that Danialle Lynce did to retaliate
8 against you?

9 A. It was just a promise of increased
10 scrutiny going forward, and at one point I had
11 asked to leave the meeting because the purpose
12 of the meeting, the purported purpose of the
13 meeting the night before when Jason Glowczeski
14 invited me to this meeting that was less than
15 12 hours away that I had no idea about was to
16 discuss my sexual harassment charge, and the
17 interesting thing about that was that all
18 during their investigation, no one ever spoke
19 to me about my sexual harassment charge, and I
20 expressed that to Jason when he called. I
21 said, Yes, I'd be interested in going to a
22 meeting with you and Danialle Lynce in her
23 office.

24 When I went into her office,
25 Danialle Lynce spent about five minutes saying

1 to me that my charge wasn't timely, and I
2 should have come forward sooner with it. Then
3 after those five minutes, for the approximately
4 next 15 to 20 minutes, she kept going through
5 documents that she had in front of her and
6 telling me that if I ever write anything like
7 whatever she read again, I'm going to be
8 subject to termination.

9 I said to her at the time, I said,
10 Those were addendums that I was allowed to
11 write under UH code of conduct. I said, You're
12 telling me that I'm not allowed to write
13 something that's allowed, to write an addendum,
14 write my side of the story. Then at that point
15 I said, I recognize this as pushback against me
16 for filing my charge of sexual harassment, and
17 I would like to leave. She said, Sit down.
18 I'm not finished yet.

19 So it continued in a badgering
20 manner for the next, like I said, 15 minutes.
21 Mr. Glowczeski was silent during this time. He
22 was sitting across from me. Once again, he had
23 a document in his hand, and it was purported to
24 be the time and attendance exception form. He
25 said that if I ever wrote on that again, that I

1 would be subject to termination. I asked for a
2 copy of that, and Ms. Danialle Lynce said that
3 she would not give me a copy of it.

4 So the meeting lasted, like I said,
5 approximately 20, 25 minutes. At the end of
6 it, I ran out to my car, and I made
7 contemporaneous notes. I came home within the
8 hour, wrote to my attorney, transcribed the
9 contemporaneous notes, and that's it.

10 Q. Other than comments that Danialle
11 made during that August 5th, 2016, meeting, did
12 she take any other action or make any other
13 statements that you view as retaliatory?

14 A. I can't recall sitting here right
15 now all the statements that she made. Her
16 demeanor was very threatening. Just her
17 general demeanor was very threatening
18 especially when she told me that I was not
19 allowed to leave and to sit back down and she
20 wasn't through.

21 Q. Mr. Dundee, maybe we should have
22 the court reporter read the question back
23 because I don't think you understood what I
24 asked.

25 A. Go ahead.

1 (Record read.)

2 Q. I'm looking for comments that she
3 made other than or evidence that you have other
4 than the comments that Danialle made during
5 that meeting.

6 A. Once again, I'd refer to my
7 contemporaneous notes which I don't have in
8 front of me right now, so I can't be
9 100 percent sure if she didn't say something
10 else or she did. I do recall what I just said.
11 So I'm not saying that my memory of the
12 occasion is as accurate as what my
13 contemporaneous notes say. So whatever I tell
14 you now, I don't recall her saying anything
15 else, but she may have said something else that
16 I took down in contemporaneous notes.

17 Q. Other than the August 5th, 2016,
18 meeting, which I'd like you to set aside for
19 this moment, did Danialle Lynce do or say
20 anything that you view to be retaliatory?

21 A. Could you clarify that? Like what
22 time period are we talking about?

23 Q. Anytime after August 5th, 2016.

24 A. Yes, she did.

25 Q. What else did she do that was

1 retaliatory?

2 A. On June 26th, 2017, she called me
3 to her office. I had just returned from
4 vacation in Florida. It was 9:00 p.m. at
5 night, and the phone rang. I had just got off
6 an airplane about an hour earlier, and I had
7 rushed to work.

8 The phone rang, and it was human
9 resources, and Danialle Lynce said that -- once
10 again, I can't -- I may be paraphrasing. She
11 said that could I come upstairs because I had
12 committed an infraction, and they were going to
13 have a discipline hearing at that time at 9:00
14 at night, and I went upstairs, and that was
15 that. I went to the discipline hearing, and
16 that was the answer to your question.

17 Q. What happened at the discipline
18 hearing that was retaliatory?

19 A. I was disciplined in a final step
20 over words that I had written in an email to HR
21 representative Rebecca Besselman, in two emails
22 specifically, over phrases. In the one email
23 referring to Ms. Besselman who was a friend of
24 mine I said you're a good kid, and in another
25 email in which I was referring to a young

1 pharmacist who was assigned to help me
2 implement cost saving suggestions that -- three
3 cost saving suggestions that I had given to
4 University Hospital, and I was explaining to
5 Rebecca in that email that this young man
6 really didn't understand how to implement these
7 suggestions and could she help me.

8 I said he's -- and I didn't want to
9 get him in trouble for saying that. I said,
10 He's a pup with little experience, a nice boy
11 but -- and they wrote me up for those three
12 phrases. They said it violated their diversity
13 policy.

14 Q. Is there anything else that
15 Danialle Lynce did that you view as
16 retaliatory?

17 A. The promise of increased scrutiny
18 in the meeting of 8-5-16 was an open-ended
19 threat. So for the entire time period going
20 forward, I felt I was under increased scrutiny
21 because it was promised that I would be under
22 increased scrutiny.

23 So Danialle Lynce didn't have to
24 actually in my opinion do anything to me. She
25 had put this threat over my head going forward,

1 and it affected every day of my life going
2 forward on the job after that.

3 Q. Is there anything else that you can
4 think of as you sit here today that Danialle
5 Lynce did or said that is retaliatory?

6 A. Nothing else.

7 Q. What about Jason? Other than
8 statements made at the August 5th, 2016,
9 meeting, is there anything that Jason did or
10 said that you view as retaliatory?

11 A. No.

12 Q. We've talked about Jason. We've
13 talked about Danialle. Have you thought of
14 anyone else that did or said anything during
15 your employment that you view as retaliatory?

16 A. Ms. Lerman was part of the
17 discipline hearing on June 26th, 2017, so for
18 her participation in that meeting, I would view
19 it as retaliation.

20 Q. Is there anything else that Rachael
21 Lerman did other than participate in that
22 June 26th discipline meeting and issue the
23 corrective action to you that you view as
24 retaliatory?

25 A. At this moment I can't think of

1 anything.

2 Q. With regard to Jason's conduct at
3 the August meeting, why do you believe that
4 there was a connection between your filing of a
5 sexual harassment claim and Jason's conduct?

6 A. The purported meeting when he
7 called on August 4th, 2016, and he called
8 around 10:00 at night, and he asked if I
9 would -- and I had this on speaker phone, and
10 it was witnessed by a fellow pharmacist, Phil
11 Snyder. He said, Frank, would you be able to
12 come to a meeting tomorrow morning with
13 Danialle Lynce? I said, Yes. I go, But what
14 is the meeting about? He says, It's about the
15 charge that you filed. I said, Yes, I would be
16 glad to attend a meeting because I've never met
17 with anybody over it. I says, I understand
18 that they dismissed it. Jason said that that
19 was what the meeting was about.

20 When I went in there, like I said,
21 five minutes of the meeting was about
22 discussing the untimeliness of my charge, and
23 then the rest of the meeting was spent
24 threatening me.

25 Q. So other than the fact that those

1 two topics were discussed by Jason in the same
2 meeting, is there anything in your mind that
3 connects his actions with your protected
4 activity?

5 A. It's all connected to the protected
6 activity because the basis of the meeting was
7 to discuss that protected activity. So it's
8 all connected to that. He never said we're
9 going to discuss -- we're going to have a
10 discipline hearing or anything like that. He
11 just said the meeting was about discussing my
12 charge of sexual harassment against Ms. Rachael
13 Lerman. There was no discussion at
14 this -- there was no preview that this was
15 going to be any type of meeting in which I was
16 going to be disciplined in any way.

17 Q. With regard to Danialle Lynce, what
18 is it that creates a connection in your mind
19 between your protected activity and her conduct
20 and comments?

21 A. I will repeat the same thing that I
22 repeated for Jason. The meeting was supposed
23 to be about a discussion of my sexual
24 harassment charge, and it turned into for the
25 majority, the vast majority of the time, into a

1 meeting, a vitriolic meeting in which I was
2 threatened.

3 Q. What about Rachael Lerman, what
4 connects her conduct with your protected
5 activity in your mind?

6 A. Her participation in the June 26th,
7 2017, discipline hearing.

8 Q. Why is her participation in that
9 meeting connected in your mind to your
10 protected activity?

11 A. Why is it? Because it wasn't a
12 coincidence that on June 26th, 2016, I filed
13 the charge of sexual harassment. It was one
14 year to that date, and that wasn't lost on me.
15 It was also the preposterous nature of what I
16 was being disciplined for.

17 Q. Now, we've just seen in Exhibit 1
18 that the first time you raised a sexual
19 harassment claim that we have documentary
20 evidence of was on June 23rd, 2016; is that
21 right?

22 A. I wasn't sure of if that was first
23 or second or what. I'm not sure of that, so I
24 can't say that for sure. I know for sure my
25 complete charge was on June 26th where I really

1 elaborated on what happened.

2 Q. What is it about Danialle's
3 participation in the June 2017 discipline
4 meeting that connects to your protected
5 activity?

6 A. Once again, it's connected to the
7 threats that were levied against me on 8-5-2016
8 and the preposterous nature of the discipline
9 on June 26th, 2017.

10 Q. You've already addressed the three
11 comments that were documented in the June 2017
12 corrective action, correct?

13 A. Yes. I mean, I may not have given
14 them, I may have paraphrased them, but that's
15 what they were.

16 Q. They were the two comments relating
17 to pharmacist Derek Frost and to HR staff
18 member Becky Besselman, correct?

19 A. That is correct.

20 Q. Did they also discuss with you at
21 that meeting prior comments that you had made
22 that were deemed inappropriate?

23 A. In which meeting are you talking
24 about?

25 Q. During the June 2017 meeting during

1 which you got your corrective action.

2 A. No. There was nothing else
3 discussed as far as -- as far as anything
4 beyond those three -- beyond those three
5 phrases, not that I recall.

6 Q. But the corrective action itself
7 dated June 26th, 2017, indicates that the
8 comments we just discussed are "unwarranted and
9 add no value in the working relationships.
10 You've made similar disparaging comments in the
11 past dating back to 2015, and this points to a
12 pattern of actions and behaviors that detract
13 from our values and policies."

14 Do you remember seeing that in your
15 corrective action?

16 A. You just read it to me. I do not
17 recall reading that in there. I just remember
18 at the time, once again, I was ambushed, so I
19 had no time at all to -- to really get my
20 bearings.

21 The biggest things that I
22 understand were those three phrases. That was
23 why I was there. I thought it was preposterous
24 at the time. I didn't say as much to them
25 because I think they wanted me to do something

1 that was actionable, and I did not say a word
2 to them really.

3 I do not recall reading that at
4 that meeting because Ms. Rachael Lerman did all
5 the reading at that meeting, and whatever she
6 said that I had done previously or whatever,
7 I've addressed anything previously with
8 addendums to any type of discipline or
9 corrective action that they did to me in the
10 past that I was made aware of.

11 Q. So Rachael and Danialle may have
12 discussed your similar prior comments during
13 that meeting, but you just don't recall as you
14 sit here today?

15 A. I don't think that they did discuss
16 that. I think that they discussed those three
17 things, and then they discussed the mechanics
18 of I was being mandated into the Employee
19 Assistance Program counseling sessions, and
20 they were talking about the mechanics and how
21 soon I had to contact the EAP personnel. That
22 was -- that was what I really took away from
23 the meeting.

24 Q. So in connection with your
25 retaliation claim, have we covered all of the

1 actors, all of the people who engaged in
2 retaliation, and all of the conduct that you
3 believe was retaliatory?

4 A. I'm not sure if we covered
5 everybody. We've covered everybody that I have
6 in my motion for summary judgment. There may
7 be other people who were involved behind the
8 scenes that may have been revealed in a
9 deposition. However, I chose not to depose
10 anybody because I think that all that it would
11 add was noise. So as far as my summary
12 judgment is concerned, we have discussed the
13 people.

14 Q. Thank you. I want to move next to
15 your ADA claim, specifically that your referral
16 to the Employee Assistance Program violates the
17 ADA. Are you familiar with that claim?

18 A. Yes, I am.

19 Q. What is it about your referral to
20 the EAP that you find objectionable?

21 A. Once again, you want me to state
22 something that's -- that's already stated in my
23 summary judgment and in other documents that I
24 stated more clearly than I'm capable of stating
25 right now. So anything that I would say right

1 now is not going to be as accurate as what I
2 wrote in my summary judgment and in various
3 documents that I had sent to the compliance
4 department, to the EAP counselor, to various
5 other people that I dealt with after that.

6 So my -- my reasons for filing that
7 claim are elucidated in all those documents,
8 and they are an accurate description, more
9 accurate than I can give you at this time.

10 Q. I appreciate that. I'm going to
11 ask you to answer that question today under
12 oath.

13 A. Okay.

14 Q. What is it about your referral to
15 EAP that you find objectionable?

16 A. It's not that I find it
17 objectionable. It's that it breaks the law.

18 Q. What is it about your referral to
19 the EAP that breaks the law in your opinion?

20 A. In my opinion my referral was not
21 for business necessity, nor was it job related.
22 Nothing changed in my working circumstances
23 after I was mandated to go into the EAP. I
24 worked the same as I always worked.

25 I viewed my mandate into the EAP as

1 a means to either terminate me or to have me
2 resign. I viewed it as Rachael Lerman and
3 Danialle Lynce weaponizing the Employee
4 Assistance Program as a matter to denigrate me
5 and embarrass and humiliate me.

6 So once again, I will say they
7 violated the ADA because it was not job
8 related, nor was it out of business necessity.

9 Q. What damages did you suffer as a
10 result of being referred to the EAP?

11 A. What damages? Damages to my
12 reputation, damages to my well-being,
13 embarrassment in front of my colleagues,
14 embarrassment in front of my family. Once
15 again, I have upper motor neuron disease,
16 hereditary spastic paraplegia. It is most
17 assuredly affected, and I stated that in many
18 documents and emails, most assuredly affected
19 by the increased stress that all of this put on
20 me. It made my work life extremely difficult
21 because I was expecting to be terminated at any
22 moment going forward for not complying with the
23 EAP mandate.

24 I went to the first meeting, and
25 then I said that I didn't think that I could

1 endure physically the stress of another
2 meeting, and I asked for it to be held, the
3 meetings to be held in abeyance. I never
4 received an answer.

5 Q. Did you attend any other meetings
6 with David Riccardi after your first meeting
7 with him?

8 A. I did not attend any other meetings
9 with David Riccardi.

10 Q. You mentioned your reputation and
11 your embarrassment in front of your colleagues.
12 Did you discuss your referral to EAP with your
13 colleagues?

14 A. My colleagues actually saw me I
15 think it was -- strike that because I can't be
16 sure of the date. But when I came back from my
17 meeting on June 26th, 2017, when I came back
18 down after meeting with Danialle Lynce and
19 Rachael Lerman, I had to call the EAP because I
20 had to schedule this meeting within five days
21 or I was going to be terminated, so I wanted to
22 make sure I did that. There were other people,
23 pharmacy technicians and another pharmacist
24 there, and I don't know if they overheard me or
25 they asked me what the situation was about, and

1 I told them that I had been mandated into the
2 Employee Assistance Program and that I had to
3 make an appointment with them or else I was
4 going to be terminated, and the embarrassment
5 of it was the supervisors had a perception or
6 the embarrassment of it is that my mental
7 health was in question.

8 Q. To your knowledge did anyone at
9 University Hospitals discuss your referral to
10 EAP with your colleagues?

11 A. Did anyone?

12 Q. Else at University Hospitals
13 discuss your referral to EAP with your
14 colleagues?

15 A. I have -- I have no idea if they
16 did or they did not.

17 Q. Did anyone from University
18 Hospitals discuss your referral to EAP with
19 your family members?

20 A. No, they did not.

21 Q. You mentioned your well-being. The
22 damage suffered to your well-being, is that the
23 increased stress that aggravated your
24 disability?

25 A. Could you repeat that, please?

1 Q. Let's try it a different way. You
2 mentioned that your well-being was damaged by
3 the referral to EAP. What were you referring
4 to?

5 A. I was worried that I was going to
6 be terminated. That was the effect it had on
7 my well-being.

8 Q. Did you have to engage in
9 additional treatment for your disability after
10 your referral to EAP?

11 A. I can't remember. I had an
12 appointment. I can't remember if I had to, but
13 I know that I suffered from the stress of being
14 in that EAP meeting for over two hours. Once
15 again, the reason you both are here today is
16 because my disease affects me from the waist
17 down, hence paraplegia, and when I'm tense, as
18 I am in this situation and as I was in that
19 situation, it affects my ability to lift my leg
20 up and drive a car. Also, what it also affects
21 is my excretory functions, the ability to
22 urinate and defecate, and it becomes quite
23 disruptive.

24 So I can't remember if I made an
25 appointment with my physician or if I had a

1 standing appointment already, but I did spell
2 out what was going on with me to Riccardi and
3 to Wendy Henoch in the compliance offices.

4 Q. Who was this physician that you had
5 an appointment with?

6 A. Denise Bobovnyik is my family
7 physician.

8 Q. Can you spell her last name to the
9 best of your ability?

10 A. B-O-B-O-V-N-Y-I-K, I think.

11 Q. Where does she practice?

12 A. She practices in Canfield, Ohio,
13 maybe about five miles from my house.

14 Q. Is she in a private office or
15 affiliated with a hospital or clinic?

16 A. At the time she may have been
17 private, but now she's affiliated with Humility
18 of Mary.

19 Q. Did you seek treatment for the
20 aggravation of your disability with anyone
21 other than Denise Bobovnyik?

22 A. No.

23 Q. Did you seek any mental health
24 treatment associated with the EAP referral?

25 A. I would have been embarrassed to

1 seek mental health treatment, and that was
2 probably why I didn't do that.

3 Q. I'm going to ask you some very
4 specific and focused questions.

5 A. Sure.

6 Q. Did you suffer any damage as a
7 result of your appointment with David Riccardi
8 in July of 2017 other than what we have already
9 talked about?

10 A. I wouldn't know. It was long-term
11 damage. I mean, I'm walking less well than I
12 walked then. So I don't know if that
13 contributed to my current condition or making
14 my disease progress more, so I can't say one
15 way or the other there. I know I'm worse off
16 than I am -- than I was then now.

17 Q. What about with regard to your
18 appointment with Jill Fulton in January 2018,
19 did you suffer any damages as a result of that
20 appointment?

21 A. It was the same situation where,
22 yes, I did. I was affected. My walking
23 ability was affected. My ability to urinate
24 and defecate was definitely affected. Those
25 were -- those were the two outcomes that I

1 would say that come to mind.

2 Q. How long did those effects last
3 after each of your appointments?

4 A. The one with David Riccardi lasted
5 pretty long, and I think it was -- I want to
6 say it was at least two weeks it took to really
7 mitigate all the circumstances.

8 Let me say this, too. I know I
9 shouldn't expand on things. All that I have to
10 do sometimes is to think about a traumatic
11 event like that was to me, and it causes me to
12 have difficulty walking, urinating, defecating.
13 The memory of it can cause me to tense up from
14 the waist down.

15 Q. Have you sought any treatment to
16 assist with these difficulties that you just
17 described?

18 A. I have sought treatment. However,
19 with hereditary spastic paraplegia, there are
20 no treatments other than muscle relaxants,
21 exercise, those are the two primary ones,
22 laxatives.

23 I have to add right now at the time
24 that I met with David Riccardi, all that I was
25 aware of that I had was upper motor neuron

1 disease. I had been to neurologists. I had
2 been to sports medicine people, all directed
3 from Dr. Bobovnyik to these people. I had been
4 to a thoracic specialist who thought I had
5 spinal stenosis. No one could give me a
6 positive diagnosis. All they could do is
7 eliminate things.

8 When I went to see the thoracic
9 surgeon, he thought for sure I had a narrowing,
10 and he said -- he took the MRI, and he said,
11 Your spinal cord is wider than most people's.
12 Then I asked him, Well, then what do I have?
13 He said, I do not know.

14 My doctor, Dr. Bobovnyik, didn't
15 know. She knew that it manifested in
16 hyperreflexivity, where my muscles are always
17 tense and ready to go, but they couldn't put
18 anything together. They knew I didn't have
19 multiple sclerosis because I didn't have
20 plaques, but I did not have a diagnosis at that
21 time.

22 I only received a diagnosis in 2018
23 in the spring, and that was because I have a
24 friend who is a geriatric specialist at UPMC in
25 Pittsburgh, and he got me a geneticist who

1 recommended that I get a test from 23andMe that
2 would map out my whole genome. This disease
3 that I thought that maybe I had, HSP,
4 hereditary spastic paraplegia, had 80 markers,
5 80 genetic markers. So he said once 23andMe
6 maps out your genetic makeup, you can go and
7 check all 80 of those things and see which one
8 you have.

9 Sure enough, I had Spc7, Spg7,
10 Spg11, Spg I think it was 20, 21, 22, but Spg7
11 and Spg11 had the most genetic markers, and
12 those are the most common forms of hereditary
13 spastic paraplegia.

14 When I went and told my doctor,
15 Dr. Bobovnyik, what I discovered, she had never
16 even heard of that disease because it's a rare
17 disease. Sure enough, that's what I have. So
18 I finally had a name to it, and there isn't any
19 cure for it. There is only treatment, and it's
20 slowly progressive.

21 Q. I'm going to refer to it as HSP.

22 A. That's fine.

23 Q. Has any provider ever diagnosed you
24 with having HSP?

25 A. No, they did not.

1 Q. Has your treatment plan changed
2 since 2018 when you performed the genetic test?

3 A. No, it has not.

4 Q. Who prescribes the muscle relaxants
5 that you use to treat your HSP?

6 A. Dr. Bobovnyik.

7 Q. Does she also prescribe
8 prescription level laxatives or any other
9 medications?

10 A. No. Pretty much the laxatives that
11 I would use are all over the counter.

12 MS. ISRAEL: Off the record for a
13 minute.

14 (Discussion off record.)

15 Q. During your appointment with David
16 Riccardi, did he perform any tests or
17 procedures on you?

18 A. No, he did not.

19 Q. What about during your appointment
20 with Jill Fulton, did she perform any tests or
21 procedures on you?

22 A. No, she did not.

23 Q. We talked about the increased
24 effects of your HSP on you after your
25 appointment with David Riccardi, and you

1 indicated that those lasted approximately two
2 weeks; is that right?

3 A. Correct.

4 Q. Did you increase your medication or
5 any other treatment during that two-week
6 period?

7 A. At that time I was not on any
8 muscle relaxants prescribed.

9 Q. When did you first receive a
10 prescription for muscle relaxants?

11 A. Jeez, when was the last time I went
12 to Dr. Bobovnyik? I would say that it was the
13 spring or fall of -- I'm getting confused on
14 the year -- of -- I'm confused on the year. I
15 can't remember if it was 2018 or 2019.

16 I think it was 2018, and I will
17 make this -- I do not like to take the muscle
18 relaxants simply because, once again, they sort
19 of have like an antihistamine effect and make
20 you drowsy, so I take them rarely. They don't
21 improve that much. I've tried two or three
22 throughout all my years of being treated for
23 upper motor neuron disease, baclofen is
24 probably the most well known, but I couldn't
25 take it. I was intolerant to it. It made me

1 feel funny. That was prescribed to me years
2 ago by a neurologist.

3 The doctor prescribed
4 cyclobenzaprine for me which seems to cause me
5 the least amount of side effects, but I really
6 don't think it really mitigates this very much.
7 So, you know, I can't take them when I go to
8 work obviously because it would affect my
9 mental acuity. So what I mostly do is take
10 them on an as-needed basis during times when it
11 seems like my disease has flared up
12 essentially.

13 Q. In July of 2017, were you taking
14 any medications to treat your HSP?

15 A. I didn't even know I had HSP at
16 that time.

17 Q. Or were you taking any medications
18 to treat any of the symptoms associated with
19 your disability?

20 A. No.

21 Q. What about in January 2018, which
22 is the time that you met with Jill Fulton, were
23 you taking any medications at that time?

24 A. Any medications or any medications
25 for my disease?

1 Q. Any medications associated with the
2 symptoms of your disease.

3 A. No, I was not taking any.

4 Q. How long do you estimate that the
5 effects lasted after your meeting with Jill
6 Fulton in 2018?

7 A. Jill Fulton's meeting, the meeting
8 with Jill Fulton had been tempered by Heather
9 Harmon who I had contacted. She is a vice
10 president over human resources, and she has
11 helped me very much in trying to mitigate
12 different situations. I was very happy to
13 have -- to have contacted her. She has been an
14 honest broker. She has helped me immensely,
15 and she mitigated that meeting with Jill Fulton
16 to make sure that it wasn't very long and it
17 really wasn't controversial, and so the
18 circumstances were different than the meeting
19 with David Riccardi. So the effects of what
20 happened probably with Jill probably, you know,
21 I was probably better within seven days or so.

22 Q. You indicated that your meeting
23 with Jill Fulton was not controversial. What
24 do you mean by that?

25 A. With David Riccardi, I had no idea

1 what the counseling session was supposed to be
2 about, and he was a very nice gentleman.
3 Believe it or not, I'm a very naive person, and
4 I practice avoidance on a lot of things. There
5 is -- you know, sometimes just not knowing
6 about something helps my condition.

7 So when I went to the meeting with
8 David Riccardi, I didn't expect anything
9 really -- I don't know. I don't know what I
10 expected, but I was surprised at the end of the
11 meeting when he presented me with all these
12 forms, medical releases, all of these things
13 that I have -- that I have -- once again, you
14 have copies of them all. They are all in the
15 FOIA documents, and they are all in my motion
16 for summary judgment.

17 But he really surprised me at the
18 end of our consultation by telling me that I
19 was going to have to come to more counseling
20 sessions. I thought it was just going to be
21 one counseling session, and he said that -- and
22 I asked him how many more, and he goes, Well,
23 it all depends. So it was open-ended there as
24 to how many more counseling sessions I was
25 going to have to endure.

1 Then the biggest thing he hit me
2 with was the following week he had me set up
3 for a three-hour psychiatric evaluation, and
4 that floored me. That, I was surprised that I
5 was able to even get up from the table after
6 that because it was such a shock to my system,
7 and I was just so surprised by it, and it just
8 like -- it just was really very traumatic to
9 hear that I'm going to a three-hour psychiatric
10 examination over those phrases. I couldn't
11 believe it.

12 Q. Did you ever attend the three-hour
13 psychiatric evaluation?

14 A. I did not.

15 Q. Did University Hospitals ever take
16 any action against you for your refusal to
17 attend the three-hour psychiatric evaluation?

18 A. To this point University Hospitals
19 has not taken any action, but it hangs over my
20 head since then because they never said that
21 they won't take action. So I am still
22 concerned about it, that they could say to me
23 at any time you didn't get to these sessions
24 and you didn't go to this psychiatric
25 evaluation. So I am still concerned over that.

1 They never said, oh, you don't have to go to
2 these things. They never said that.

3 Q. So the two things that David
4 Riccardi presented you with at the end of your
5 meeting were continued counseling sessions and
6 the three-hour psychiatric evaluation; is that
7 right?

8 A. And the release forms, yes.

9 Q. Did you sign the release forms?

10 A. I signed all the release forms but
11 the one that he wanted to -- once again, like
12 you want to do, he wanted to get my medical
13 release from my doctor, and I refused that.

14 Q. Did University Hospitals take any
15 action against you for your refusal to sign the
16 medical release form?

17 A. To this point they have not taken
18 any action against me.

19 Q. You did not attend any further
20 counseling sessions with David; am I right?

21 A. That is correct.

22 Q. I want to turn now to your third
23 claim for relief which is discrimination under
24 the ADA. Are you familiar with that claim?

25 A. Yes, I am.

1 Q. Is your disability discrimination
2 claim based on a disability that you actually
3 suffer from?

4 A. No, it is not.

5 Q. In your complaint you allege that
6 University Hospitals regarded you as having a
7 disability and discriminated against you by
8 referring you to the EAP; is that right?

9 A. That's correct.

10 Q. Who regarded you as having a
11 disability?

12 A. Under the EAP documents or code of
13 conduct under the EAP, there are two types of
14 referrals, a voluntary referral and a mandatory
15 referral, and under the mandatory referral, the
16 only person who can refer you is your immediate
17 supervisor in consultation with HR. So my
18 immediate supervisor actually makes a diagnosis
19 before -- or any supervisor makes a diagnosis
20 of the person before they are mandated into EAP
21 sessions, counseling sessions.

22 Q. Who in this case regarded you as
23 having a disability?

24 A. Rachael Lerman.

25 Q. You said she makes a diagnosis.

1 What diagnosis did she make with regard to you?

2 A. Well, she's making a broad
3 diagnosis that I must have some sort of a
4 mental health problem or disability.

5 Q. Is it your opinion that you could
6 only be referred to mandatory EAP because of a
7 mental health problem or disability?

8 A. No, that's not my opinion that's
9 the only thing you could be referred for, but
10 in my case that was what the referral was.

11 Q. How do you know that Rachael Lerman
12 determined that you had a mental health problem
13 or disability?

14 A. My referral to a psychiatrist.

15 Q. That referral was made by David
16 Riccardi after your meeting with him in July?

17 A. I don't know if David made the
18 referral or if that's just part of the process.

19 Q. Did Rachael Lerman ever tell you
20 that she believed that you had a mental health
21 problem or disability?

22 A. No, she did not say in those words.
23 However, in the documents that you have which
24 are referring to my past actions, as far as I
25 was concerned, the inference was that I must

1 have something wrong with me because I
2 continued to do these same untoward actions.

3 Q. That was the inference that you
4 made based on what she wrote?

5 A. Exactly.

6 Q. Who discriminated against you with
7 regard to your perceived disability?

8 A. Rachael Lerman.

9 Q. Anyone else?

10 A. I suppose you could say that
11 Danialle Lynce, since she was the HR person
12 involved, and the immediate supervisor must
13 discuss it with an HR rep, and they decided to
14 go forward with this mandatory referral, so I
15 would say Danialle Lynce was also involved.

16 Q. Other than making the mandatory EAP
17 referral, did Rachael Lerman do or say anything
18 that you view as discrimination for your
19 perceived disability?

20 A. I don't know if I understand that
21 question completely.

22 Q. Sure. I'm trying to understand the
23 factual basis for your discrimination under the
24 ADA claim, so I'm trying to determine what it
25 is that you believe was discriminatory, what

1 actions or comments.

2 A. Once again, that -- my argument is
3 contained in my motion for summary judgment and
4 in other documents that I have sent, other
5 emails that I have sent to people. It's
6 intrinsic to the UH policy on EAP referrals
7 that the supervisor is the sole judge of who
8 should be mandated into EAP sessions. So since
9 the EAP counseling session also included a
10 psychiatric evaluation -- I even forget where I
11 was going with this. I'm sorry.

12 Q. But your EAP counseling session did
13 not actually include a psychiatric evaluation;
14 am I right?

15 A. Well, it did include a psychiatric
16 evaluation. I just never went to it.

17 Q. It included a referral that you did
18 not follow up on?

19 A. That's correct.

20 Q. So other than the referral to
21 mandatory EAP, did Rachael Lerman do anything
22 to discriminate against you with regard to the
23 perceived disability?

24 A. No, she didn't, and that's part of
25 the reason why it wasn't a business necessity

1 or job related, because there was no
2 difference, and I was able to come to work and
3 do my job every night. So it obviously -- this
4 referral obviously wasn't for business
5 necessity of any means because I was allowed to
6 come to work just as I always came to work and
7 do my job just as I always did my job except
8 for the fact that I was under terrific stress
9 because I didn't know when the next shoe was
10 going to drop and because I was under the
11 threat of termination.

12 Q. Did anything about your job duties
13 or responsibilities change after your referral
14 to EAP?

15 A. My job duties became more difficult
16 because I was under the increased stress and
17 anxiety of the whole situation. So I document
18 very well because of my old days when I was
19 involved in union activities. Once this whole
20 EAP came up, I changed how I did a lot of my
21 things at work where I was documenting things
22 that no other pharmacist had to document. So I
23 was doing timestamps on things. I was making
24 sure to write anything down that I thought
25 might be used against me.

1 Once again, I rarely if ever and
2 rarely if ever to this day have a clear mind
3 when I'm on the job, and that is very
4 disconcerting, to have these things weighing on
5 me that another shoe may drop here or there.
6 So, yes, it did change my working conditions
7 quite a lot because I was afraid I was going to
8 be terminated.

9 Q. Did Rachael Lerman or anyone else
10 at University Hospitals ask you to do
11 additional documentation after the referral to
12 EAP?

13 A. I did the additional documentation
14 on my own.

15 Q. Other than the mandatory referral
16 to EAP, did Danialle Lynce do anything that you
17 perceived to be discriminatory with regard to
18 your perceived disability?

19 A. I cannot think of anything at this
20 moment.

21 Q. Thank you. Have you sought any
22 medical treatment for any injury that you claim
23 was caused or exacerbated by the conduct of
24 University Hospitals?

25 A. Well, I would say in going to my

1 physician and getting the -- and getting the
2 muscle relaxant, I would say that, and I'm also
3 subject to panic attacks, so I have a
4 prescription for sertraline for panic attacks.
5 I don't use it all the time, but I use it under
6 times of stress, and I got that renewed when I
7 went in at the time that I got the muscle
8 relaxant. In fact, I got several muscle
9 relaxants. I think the other one was
10 tizanidine. I couldn't tolerate the
11 tizanidine, but the cyclobenzaprine I could.

12 Q. When did you first start to
13 experience panic attacks?

14 A. Oh, I would say probably around
15 2003 or '04 was the first time I recognized
16 them. I have had generalized anxiety, and it
17 wasn't diagnosed by anybody, but I've always
18 been an anxious person. So I probably was
19 having panic attacks did didn't recognize them
20 for a while. Then finally in 2003 it
21 just -- 2003 or '04 I started experiencing
22 them, and it wasn't going away. I wasn't
23 obtaining relief. So I went in, and the doctor
24 prescribed sertraline, and it kept them under
25 control.

1 During times of stress like when my
2 oldest one was going away to college or my
3 youngest one was doing something else, I would
4 take it. I'm not a very good patient even
5 though I'm a pharmacist. I would take it
6 prophylactically for a couple of weeks just to
7 ease over the hump where I'm under a lot more
8 stress.

9 So when I went in to see her after
10 all this stuff that occurred, you know, I just
11 made sure to refill my sertraline, and I
12 started taking it a little more regularly at
13 that time.

14 Q. Are you continuing to take it more
15 regularly up until today?

16 A. Yes. Actually, because this was
17 looming, yes, I started taking it maybe a
18 week-and-a-half or so again.

19 Q. Between the time period of January
20 2018 when you met with Jill Fulton and your
21 deposition here today in 2020, tell me how
22 often you were taking the sertraline?

23 A. You know, at that time it was
24 probably daily for that time period for
25 probably -- I would say probably for at least

1 three to six months after that.

2 Q. Then you tapered off to more
3 sporadic use like you described?

4 A. Well, once again, you can't just
5 take it once. I have to take it for like a
6 week or two, but yeah. Other than that, yeah.
7 It was sporadic use until, once again, high
8 anxiety times of when I was filing the lawsuit,
9 high anxiety times, you know. I've been, you
10 know, pretty much on it for the last probably
11 six months pretty much.

12 Q. Has anyone other than Dr. Bobovnyik
13 prescribed sertraline for you?

14 A. Sertraline, no, no one else.

15 Q. Other than the muscle relaxant and
16 the sertraline, have you taken any other
17 prescription medications in the last five
18 years?

19 A. No.

20 Q. Have you sought any mental health
21 treatment for any injury that you claim was
22 caused or exacerbated by University Hospitals?

23 A. No.

24 Q. Have you applied for any other
25 employment since you began working for

1 University Hospitals I think it was in 2010; is
2 that right?

3 A. Yeah. Yes, I -- I did for sure.
4 It looked like I was going to take the job. I
5 live pretty far away from Geauga Community
6 Hospital, so with my condition being the way it
7 is, I was hoping to get work somewhere closer.
8 So I applied at St. Joe's in Warren, Ohio. But
9 the pay cut and the benefits that I was going
10 to have to take, I just couldn't pull the
11 trigger on it, to tell you the truth, but I did
12 try to work somewhere else.

13 Q. When approximately was it that you
14 were considering the St. Joe's job?

15 A. I've been -- I would say
16 probably -- my bulldog has been dead for
17 probably five years now, so I would say
18 probably in the range of five years ago.

19 Q. Around 2015, is that your best
20 guess?

21 A. Yeah, probably around there. I
22 can't for sure say that that was when.

23 Q. Have you applied for any other
24 positions other than St. Joe's since 2010?

25 A. I'm trying to think. Probably

1 traveling pharmacist. We get emails all the
2 time for traveling pharmacist. So I probably
3 filled out some applications for them, but, you
4 know, I never really seriously pursued it, and
5 I think when my son Frank was at Marist College
6 in Poughkeepsie, New York, I thought of taking
7 a job in Poughkeepsie at a hospital up there,
8 and so I think I did apply there as well, but
9 those were just nothing as serious as the
10 St. Joe's position.

11 Q. When was the New York application?

12 A. Well, Frankie would have been up
13 there in 2011-2012, so it was probably 2011 or
14 2012.

15 Q. What made you decide not to pursue
16 the traveling pharmacist positions?

17 A. In discussions with my wife, it
18 just wasn't going to work out for our family,
19 you know. I told her what it would probably
20 entail, and she just didn't like the idea of me
21 being away for, you know, periods at a time.
22 Like I said, it was just some of those things
23 were because I was afraid of maybe getting
24 fired or something. I was concerned about
25 that, so I wanted to have something just in

1 case, you know, just in case something untoward
2 would happen.

3 Q. Have you ever applied for any other
4 positions within the University Hospitals
5 Health System?

6 A. Well, you see, that's one of the
7 bad things about being under discipline is that
8 I can't apply, and I would have liked to have
9 applied. There were many positions that came
10 open on the various times that I was written up
11 for one thing or another, and you are prevented
12 for a year from applying, so I couldn't apply.

13 Q. What positions would you have
14 wanted to apply for?

15 A. Well, they opened a specialty
16 pharmacy, and it was under Aleene Naples who
17 was a prn pharmacist at Geauga for a while, and
18 we got to become very good friends. She was in
19 charge, and she wanted to know if I wanted to
20 come over to the specialty hospital, and I told
21 her that I couldn't because I was under -- you
22 know, I couldn't bid on it because I was under
23 this discipline situation.

24 Q. When was that?

25 A. Once again, I would say it could

1 have been four years ago or five years ago.
2 Once again, however, I mean, from June of 2016
3 until June of 2018, no matter what came my way,
4 even though I was interested in it, I couldn't
5 bid on a job for that two-year period.

6 Q. Have you applied for any positions
7 within the University Hospitals system since
8 June 2018?

9 A. No, I have not.

10 Q. Have you ever participated in any
11 kind of mental health counseling or treatment?

12 A. No, I have not, except for the EAP
13 counseling session.

14 Q. Have you ever participated in any
15 kind of marriage counseling or treatment or
16 coaching?

17 A. With my first wife, I did go to
18 counseling with her, but that was 30 years ago.

19 Q. Any other type of counseling that
20 you can think of or life coaching?

21 A. None.

22 Q. Have you ever had a diagnosis of
23 any kind of mental health issue?

24 A. No, I have not.

25 Q. Have you ever undergone any type of

1 mental health treatment?

2 A. No, I have not.

3 Q. You've never been
4 institutionalized?

5 A. No, I have not.

6 Q. Have you ever been convicted of a
7 crime?

8 A. No, I have not.

9 Q. Ever pled guilty to a crime?

10 A. No, I have not.

11 Q. Have you ever filed a lawsuit
12 against any other person or entity?

13 A. No, I have not.

14 Q. What medication have you taken
15 within the last 30 days?

16 A. Sertraline and cyclobenzaprine.

17 Q. Do either of those medications
18 affect your ability to tell the truth today?

19 A. No.

20 Q. Do either of those medications have
21 a negative impact on your memory?

22 A. Not that I know of.

23 Q. Is there any other reason that your
24 ability to testify today might be impaired?

25 A. The only other thing might be that

1 I'm a third-shift worker, and I've been on it
2 steady for ten years, and that imposes quite a
3 lot of stress on all areas of -- of life, and
4 it's well known if you look it up on Google
5 that people that work third shift long term
6 because of the disruption to their sleep
7 patterns could be affected.

8 Q. During --

9 A. Go ahead.

10 Q. Are you finished with the answer?

11 A. Yes. I'm sorry.

12 Q. That's okay. During your
13 employment with University Hospitals, did you
14 ever request to be taken off the third shift?

15 A. Yes, I have.

16 Q. Tell me about that.

17 A. Well, it was -- it's in my -- I
18 have been talking to them for the last two
19 years about an accommodation for my HSP, and
20 I've been asking them to allow me to work from
21 home, and if I work from home, it would have to
22 be on first shift or second shift, although I
23 could work third shift. If they allow me to
24 work from home, I will work any shift. But
25 that's the only reason why I've asked for the

1 other shifts is because you need a person there
2 on third shift because there is only one
3 pharmacist. So as it stands right now, if I
4 work from home, I can only do it on the first
5 and second shift.

6 Q. Were there any other requests that
7 you made to move off of third shift while still
8 being physically present at the hospital?

9 A. No, no other request.

10 Q. I'm going to start questioning you
11 about some documents again. Do you want to
12 take a break?

13 A. I'm okay if you two are okay.

14 - - - - -

15 (Thereupon, Deposition Exhibit 2,
16 the Defendant's First Set of
17 Requests for Admission to Plaintiff,
18 was marked for purposes of
19 identification.)

20 - - - - -

21 Q. I'm going to hand you what's been
22 marked as Defendant's Exhibit 2. Do you
23 recognize that document?

24 A. Not right off, but let me take a
25 look, okay? No, I haven't seen this before I

1 don't think.

2 Q. Let's take a look --

3 A. I'm looking at the date. So I must
4 have seen it, but I don't remember seeing it,
5 but go ahead.

6 Q. Let's look at the first page. If
7 you see under Requests for Admission, it lists
8 Request For Admission No. 1, and then below
9 that is a response in bold and underlined.

10 A. Yes.

11 Q. Does that response look familiar to
12 you?

13 A. Yeah. I just made that response
14 today.

15 Q. What I mean is does that refresh
16 your recollection that these are the responses
17 that you drafted and provided to University
18 Hospitals in response to the Requests for
19 Admission?

20 A. Yes. Yes, I recognize that.

21 Q. So I want to discuss some of these
22 responses with you.

23 A. Sure.

24 Q. These Requests for Admission are
25 asking you to either admit or deny what is

1 stated in the request. If you look at Request
2 for Admission No. 4, the request says, "You
3 were not demoted following your complaint of
4 alleged sexual harassment by Rachael Lerman."
5 Your response was no.

6 Do you mean that you are denying
7 the truth of that or that, no, in fact you were
8 not demoted?

9 A. No, in fact I was not demoted. So
10 I guess it should have been yes. I'm sorry.

11 Q. That's fine. That's what I
12 suspected. I just want to clarify your answers
13 to make sure that I understand what you're
14 indicating.

15 A. Yeah.

16 Q. I want to look at Request for
17 Admission No. 6. You did not experience a
18 reduction in pay or benefits following your
19 complaint of sexual harassment; is that
20 correct?

21 A. That is correct.

22 Q. With regard to No. 8, University
23 Hospitals has not restricted you in any way or
24 at any time from performing your job duties; is
25 that correct?

1 A. That is correct.

2 Q. That's it for that document. Thank
3 you. You can set them on a chair or whatever
4 is easiest for you.

5 A. Thank you. Do you want me to do
6 them face down?

7 Q. No. Next I'm going to hand you
8 what's been marked as Defendant's Exhibit 3.

9 - - - - -

10 (Thereupon, Deposition Exhibit 3,
11 the Defendant's First Set of
12 Interrogatories to Plaintiff, was
13 marked for purposes of
14 identification.)

15 - - - - -

16 Q. Do you recognize that document?

17 A. I kind of don't.

18 Q. Again, I'll direct you to the
19 answers under each interrogatory in bold and
20 underlined. Do those look like the answers you
21 provided on this document?

22 A. Yes, they do look like my answers.

23 Q. If you could turn the page to
24 Interrogatory No. 2 on page 2, if this case
25 proceeds to trial, what people do you

1 anticipate calling as witnesses to testify on
2 your behalf?

3 A. I'm sorry. None.

4 Q. Are there any people that you can
5 identify for me today who have knowledge of the
6 facts alleged in your complaint other than
7 yourself?

8 A. Knowledge of the facts?

9 Q. Yes.

10 A. I did mention Phil Snyder. You
11 caught me. I can't -- I guess I'm having a
12 hard time with the question. Any other people
13 that know I filed a lawsuit?

14 Q. Any other people that have
15 knowledge regarding the underlying facts; for
16 example, one of the facts that you allege are
17 that you were referred to EAP.

18 Can you identify people who might
19 have knowledge of that fact?

20 A. Mary Williams, Fran Manning, Phil
21 Snyder, Susan Thabit -- let me think -- Marilyn
22 Gibbs, Tracey Thoms, T-H-O-M-S, John Long. You
23 don't mean family members like my wife or my
24 brother or anybody like that, anything like
25 that, correct?

1 Q. Other than your wife and your
2 brother, have you discussed the underlying
3 facts of your case with your family members?

4 A. Yes, I have.

5 Q. Which family members?

6 A. My sons; my in-laws; my best
7 friend, Sergio Ciccone, in Charlotte, North
8 Carolina; his cousin who works for the federal
9 side of the EEOC in Washington.

10 Q. What is his name?

11 A. Oh, God. I was going to say Mario,
12 but that's his cousin that's a tailor. I can
13 get it for you.

14 Q. So of these family members and
15 friends which include your wife, your brother,
16 your sons, your in-laws, your best friend, and
17 your best friend's cousin, do any of them have
18 firsthand knowledge relating to these facts?

19 A. Firsthand knowledge? My wife has
20 firsthand knowledge of when Rachael told me in
21 that chamber, the -- the air lock when I was
22 leaving and she was coming, when she said, Hey
23 sexy, and then she said, I could probably be
24 fired for saying this.

25 You know, my drive home takes an

1 hour. As soon as I came through the door, I
2 told my wife what had happened. I said, You're
3 never going to believe this, but Rachael just
4 said, Hey sexy, and she said, I could probably
5 get fired for saying this. So my wife was sort
6 of like a contemporaneous witness at the time.

7 I would also say Nancy Grimm,
8 attorney-at-law, I had consulted her. I had
9 consulted her at the time I filed my sexual
10 harassment charge, and I had consulted her in
11 spring of 2019 about maybe engaging her as my
12 attorney when I filed this lawsuit, and then I
13 decided against it, that I would just handle it
14 myself. So I have discussed things with her,
15 but I don't think she's like -- I mean,
16 she's -- my wife was a firsthand knowledge type
17 of thing.

18 I'm trying to think of other
19 people. Like I said, Susan Thabit was there
20 the night I got --

21 Q. Let's slow down just for a
22 minute --

23 A. I'm sorry.

24 Q. -- and make sure that we finish
25 with your wife. When I use the phrase

1 firsthand knowledge, I mean that a person
2 actually heard or observed something himself or
3 herself.

4 A. I see what you're saying.

5 Q. Do any of your family members or
6 friends have any firsthand knowledge?

7 A. They do not.

8 Q. I assume the answer is the same
9 with regard to Ms. Grimm. She didn't actually
10 observe or hear anything?

11 A. No, she did not.

12 Q. Okay. So then let's turn to the
13 list of people that you mentioned. Phil
14 Snyder?

15 A. Yes.

16 Q. Other than overhearing the phone
17 call that you received from Jason setting up
18 the meeting, what knowledge does Phil have
19 about the facts alleged in your complaint?

20 A. Well, Phil is a pharmacist and an
21 attorney, so I had discussed things with him
22 over a time period. I mean, once again, they
23 weren't firsthand for him.

24 Q. Other than things that you
25 discussed with Phil, does he have any other

1 firsthand knowledge relating to the facts of
2 your complaint?

3 A. He does not.

4 Q. What about Mary Williams, who is
5 that?

6 A. She's a pharmacist that I work
7 with.

8 Q. What knowledge does she have
9 relating to the facts in your complaint?

10 A. Firsthand knowledge again? She has
11 no firsthand knowledge.

12 Q. What other knowledge might she
13 have?

14 A. She knows the general things
15 involved in my case.

16 Q. Does she know them because you've
17 discussed them with her?

18 A. Yes.

19 Q. Does she have any other sources of
20 knowledge that you're aware of?

21 A. Not that I'm aware of.

22 Q. Same question with regard to Phil.
23 Other than overhearing that phone call and
24 discussing with you, are you aware of any other
25 sources of knowledge that Phil might have?

1 A. I am not aware of anything.

2 Q. Fran Manning, who is that?

3 A. She's a pharmacist.

4 Q. Does she have any knowledge
5 regarding the facts alleged in your complaint?

6 A. Just knowledge of the facts, yes,
7 she does.

8 Q. Did she get that knowledge through
9 discussions with you?

10 A. Yes, she has.

11 Q. Do you know if she has any
12 firsthand observations that would be relevant?

13 A. No.

14 Q. Susan Thabit, who is that?

15 A. A pharmacist.

16 Q. What knowledge does she have
17 regarding the facts alleged in your complaint?

18 A. Well, she does have firsthand
19 knowledge of an important incident that I
20 decided to leave out of my motion for summary
21 judgment because I just thought it was just
22 more noise.

23 In the time period between June
24 when I filed my charge of sexual harassment in
25 2016 and the August 5th meeting of 2016 with

1 Jason Glowczeski and Danialle Lynce, at some
2 point in that time period, and I only found
3 this out fairly recently within the last maybe
4 18 months, Susan Thabit was requested to go up
5 to HR with Danialle Lynce, I don't know who
6 else was there, and Danialle Lynce presented
7 that time and attendance exception form on
8 which I had scribbled "she made me sign this"
9 next to Susan's name. And once again, that was
10 just a joke between Susan and I and this tech
11 that was standing there.

12 She got interrogated about it,
13 about the intent of "she made me sign this,"
14 where Danialle Lynce according to Susan, and
15 I'm paraphrasing, Danialle Lynce said to her,
16 and she is small in stature, she said, How
17 could you force him to sign this? How could
18 you force him to sign this? Isn't he a lot
19 bigger than you are? She just was completely
20 perplexed, and she said that she -- once again
21 paraphrasing, she said she felt as if she was
22 trying to get something sinister out of what
23 was a joke between the two of us.

24 Q. You were not present during the
25 discussion between Susan and Danialle, correct?

1 A. No. Once again, I found out a year
2 to a year-and-a-half probably after it happened
3 she told me that.

4 Q. Did Susan also discuss with you the
5 time card exception form on which you wrote
6 that she might be lying, you weren't standing
7 next to her at the time clock when she clocked
8 in?

9 A. She might be lying? I don't
10 remember that remark. I don't remember that
11 remark at all.

12 Q. Marilyn Gibbs, who is that?

13 A. She's -- go ahead. I'm sorry.

14 Q. I'm sorry. I didn't finish up with
15 Susan. Is there any other knowledge that Susan
16 might have regarding your facts or allegations
17 in the complaint?

18 A. She just understands the general,
19 you know, what's going on generally.

20 Q. Again, that's through discussions
21 with you?

22 A. Yeah. Yes.

23 Q. Tell me, who is Marilyn Gibbs?

24 A. She is a pharmacy technician.

25 Q. What knowledge does she have

1 regarding the allegations in your complaint?

2 A. She happened to be rounding through
3 the hospital the day that I was meeting with
4 Jill Fulton, and she came across me and Jill
5 Fulton standing outside the HR offices, and she
6 later asked me, she goes, Were you in trouble?
7 What was going on? I told her, I says, Well, I
8 had to attend an EAP session.

9 Q. Does Marilyn know anything else?

10 A. No, not really.

11 Q. What about Tracey Thoms, who is
12 that?

13 A. Tracey Thoms is a technician who
14 had been working with me on my shift I think it
15 was since June. They changed job
16 responsibilities, and they shifted them around
17 so they had to add a tech to my shift. She's
18 not there to help me. She's there -- she has
19 assigned things that she's supposed to do. So
20 Tracey, ever since I filed this has, you know,
21 been aware that I filed it, but she never
22 worked at Geauga prior to that, and she has no
23 firsthand knowledge of anything.

24 Q. This change of job
25 responsibilities, did that have anything to do

1 with the protected activity that you engaged
2 in?

3 A. No.

4 Q. Did it have anything to do with
5 your filing of this lawsuit?

6 A. No.

7 Q. Did it have anything to do with
8 your job performance at all?

9 A. No.

10 Q. Is there anyone else that you can
11 think of other than the people we've discussed
12 that might have knowledge of the facts alleged
13 in your complaint?

14 A. That's a good question. I'll
15 probably think of somebody later tonight. I
16 forget what his last name is, but I mentioned
17 him in -- in the motion that I made for class
18 action certification. His name, his first name
19 is Jeff, and he works in maintenance, and he
20 was also remanded into the EAP mandatory, so he
21 is aware of -- he is aware of what's going on
22 with me.

23 Q. Does he have firsthand knowledge of
24 what's going on with you, or he has knowledge
25 because of your discussions with him?

1 A. Just because of my discussions.

2 Q. Is there anyone else that you can
3 think of?

4 A. Firsthand knowledge? At this
5 moment I can't think of anyone else.

6 Q. I'd like you to look now at your
7 response to Interrogatory No. 6. That
8 interrogatory asks you to describe occurrences
9 of being subjected to a hostile work
10 environment. In this answer you refer to your
11 personnel file and state, "Every
12 formal/informal discipline was a manufactured
13 event intended to harass the plaintiff."

14 Is it your contention that none of
15 the discipline that you've received while
16 employed at University Hospitals was warranted?

17 A. I would say that none of it was
18 warranted. I have to make that statement.
19 None of it was warranted.

20 Q. Setting aside the formal and
21 informal discipline that you received, what
22 else can you tell me about the hostile work
23 environment that you experienced? What made it
24 hostile?

25 A. Well, the scrutiny that I was under

1 from a little before October 2013, it may have
2 been five to six months, sort of coincided with
3 when Rachael was elevated to department
4 supervisor. Prior to that when Jason was
5 department supervisor, I never had any
6 disciplines, never had any -- anything, and in
7 the two years since Rachael has been gone, I
8 haven't had any disciplines, and I haven't had
9 anything untoward happen to me.

10 Q. Is there anything else that you can
11 think of that made your work environment
12 hostile?

13 A. Just the uncomfortableness. When
14 Rachael would make remarks about my physical
15 appearance back somewhere in 2012, like I said,
16 on at least two occasions she would make some
17 remark about my hair, my body, my this, my
18 that, and then that was culminated with when I
19 ran into her in that airlock and she said, Hi
20 sexy, and then she laughed and says, I could
21 probably be fired for saying that, I
22 immediately changed my work routine so that
23 I -- she came in later, that I would never get
24 out late, and I was always fearful of running
25 into her. I was always fearful of the next

1 shoe to drop. I was always uncomfortable. I
2 was always anxious because I would get ambushed
3 just like I did on June 26th, 2017, without any
4 formal warning, without anything. I would come
5 into work, and all of a sudden I'm called into
6 the office, and I have no idea what it's about.

7 So it was a generalized -- it was
8 traumatic, and it still is traumatic to go in
9 that hospital because I still remember all the
10 memories and all the times that things
11 occurred.

12 Q. Are there any things that occurred
13 other than what you and I have already talked
14 about today?

15 A. That's kind of broad.

16 Q. What I mean is, I'm using your
17 phrase, you were traumatized you say because of
18 things that occurred. Are there any other
19 things that would go into that category of
20 events or experiences that you and I have not
21 talked about today?

22 A. As of this moment, I can't think of
23 anything. That doesn't mean that they didn't
24 occur.

25 Q. I understand, and the whole purpose

1 of this deposition is to take your testimony
2 based on your recollection.

3 A. I understand.

4 Q. I'm not intending to give you any
5 kind of trick questions, but just to explore
6 the limits of your knowledge.

7 A. I appreciate that.

8 Q. I'd like you to look now at
9 Interrogatory No. 8. That interrogatory asks
10 you for the basis of your allegation that
11 others on the pharmacy staff committed
12 infractions that were ignored. Are you
13 familiar with that allegation?

14 A. Yes.

15 Q. You identify several people here,
16 Susan Thabit being one of them.

17 A. Yes.

18 Q. George Brown?

19 A. Yes.

20 Q. Larry Schepps, S-C-H-E-P-P-S?

21 A. Yes.

22 Q. And Lisa Wojotowitz,
23 W-O-J-O-T-O-W-I-T-Z, if I pronounced that
24 correct. Let's talk about each one of these
25 people.

1 What is it that you believe Susan
2 Thabit did that warranted discipline for which
3 she was not disciplined?

4 A. Susan is an interesting person
5 there. She has been I'm not going to say
6 accused, but she has had complaints lodged
7 against her for creating a hostile work
8 environment for pharmacy technicians. Anna
9 Penko is a pharmacy technician, and if I'm
10 phrasing it correctly, she felt she was being
11 singled out and picked on by Susan, and it was
12 making the work environment hostile.

13 She went to Rachael Lerman and
14 complained about it and gave her the examples
15 of what she was talking about in her particular
16 case with Susan. I'm paraphrasing this, but
17 it's pretty close to the quote that Anna told
18 me. When she got done listing all the things
19 and why it was getting intolerable to work with
20 Susan Thabit, Rachael said, Oh, that's just
21 Susan. Everyone has to take their turn. Anna
22 was floored when she said that to her.

23 Q. Do you know if Susan Thabit was
24 counseled at all regarding this complaint?

25 A. I don't have firsthand knowledge,

1 but believe it or not, Susan and I are -- I'm
2 probably her best friend in the pharmacy, and I
3 would think that she probably would have said
4 something about it if she got counseled.

5 Q. Do you know if Susan Thabit has
6 ever been disciplined during her employment at
7 University Hospitals?

8 A. In my estimation I don't think
9 she's ever been disciplined as far as a formal
10 discipline. I'm not aware of it. Once again,
11 I'm only relying on the fact that we're fairly
12 good friends, and she tells me a lot of things.
13 But Susan was also -- it's sort of like her MO.
14 I don't know why she's like this because she's
15 like a good person, but I don't know -- this
16 has nothing to do with anything except that
17 pharmacists are -- a lot of pharmacists are
18 condescending towards pharmacy technicians, and
19 they don't treat them properly, and Susan goes
20 beyond that with some of the technicians, with
21 most of them.

22 Glenn Johnson, who has been with UH
23 for about 30 years, back when Jason -- I think
24 Jason was still a boss then or maybe Rachael.
25 No, it was when Jason was a boss. He went to

1 Jason and asked to switch weekends because he
2 was on Susan's weekend, and he couldn't take
3 the environment she was creating for him, and
4 it got switched, and to my knowledge Susan
5 wasn't disciplined over that.

6 Who is the other? Lacey Minnick
7 was another pharmacy technician who no longer
8 is employed at UH, but she told me that Susan
9 threw a stapler at her one night, and I can't
10 say for sure that Lacey reported that to
11 Rachael or not. My memory isn't good of that
12 situation, but I remember her telling me that.

13 Then my firsthand knowledge with
14 Susan was this. Early on in my career when I
15 started there, just like any new person, you
16 have to figure out the personalities and who is
17 what and who is this. I follow Susan on my
18 shift. Her shift ends around -- well, it used
19 to end at 11:00, but her shift ends around
20 10:30 or so. So I come in at 9:00, and I would
21 always come into a mess. The place would be
22 just out of control and everything.

23 Like I said, we overcame that.
24 She's way better than she used to be now. I
25 don't run into that problem anymore. Once

1 again, I said that we're friends now. We're
2 good friends. I'm not going to say -- I think
3 I'm her best friend in there because most
4 people kind of shun her.

5 But one night a pharmacy technician
6 called in, and I always answer on speaker phone
7 simply because I have to multitask. I'm the
8 only pharmacist on my shift, and I take care of
9 three hospitals, two by telework, Geneva and
10 Conneaut, along with Geauga, and then I also
11 take care of an Andover immediate care and then
12 an Ashtabula immediate care. So I can't put
13 the phone up to my ear because I'm -- I'm
14 usually doing things at the same time.

15 So I answered the phone that
16 particular night, and this pharmacy technician
17 was worried about her brother-in-law, he was
18 missing, and she wanted to know if I could look
19 at the hospital census and tell her if he's
20 down in ER or if he got admitted. I told her I
21 can't. I said, That's HIPAA. I said, I'm
22 sorry. I can't tell you that.

23 Well, Susan, her workstation is
24 right beside of mine, and she heard that, and
25 she goes, Just give me the phone. So she picks

1 up the phone, and she looks through the thing,
2 and she gives the information to that
3 technician. I told her, I go, Susan, that's a
4 HIPAA violation. You can't do that. I said,
5 You can't do that.

6 Then it happened several times
7 further down the line where it would be a
8 friend of Susan's, and she's looking at that
9 patient's chart and diagnosis which is a HIPAA
10 violation. Unless you have business in that
11 person's chart, you're not to be looking at it
12 whether it's a family member or anybody if
13 you're following the law.

14 So I had sent Rachael a note, and I
15 said I don't want Susan to be fired over this,
16 but I'm just telling you that she's violating
17 HIPAA, and as far as I knew, nothing was ever
18 done.

19 Q. Do you know if Susan was ever
20 counseled or disciplined for maintaining a
21 messy or out-of-control work space on her
22 shift?

23 A. I would say possibly recently she
24 was under the new supervisor. I don't remember
25 it under Rachael Lerman.

1 Q. Did you ever report to anyone what
2 you viewed as Susan's inappropriate
3 interactions with pharmacy technicians?

4 A. I may have over Glenn Johnson. I
5 remember Anna Penko complaining to me about
6 Susan, that she was treating her unfairly.
7 Once again, I'm kind of an empathetic person.
8 I like Susan. I don't know why in some cases,
9 but I like her, and I didn't want -- except for
10 me telling her about that HIPAA, I didn't want
11 to see her get into trouble.

12 So what I tried to act as was as an
13 in-between between the techs and her, not so
14 much going to her, but telling the techs how I
15 think they can mitigate their behavior to stay
16 out of her sights. Like she would get upset if
17 the techs answered a phone even though it was
18 ringing off the hook and then relaying a
19 message to her. She would get real upset.

20 I would tell the techs maybe
21 different ways to sort of mitigate that
22 circumstance or something. I would try to
23 explain to them that there are just some
24 pharmacists who just -- I don't know why they
25 have it in for the technicians. I don't

1 understand it.

2 I did try to mitigate circumstances
3 because I kind of -- like I said, I empathize
4 with Susan, I know the way she is, but I also
5 know that she has helped a lot of technicians
6 there as well. She's sort of a complex person.
7 I know she's given money to some techs. The
8 tech that it's alleged she threw the stapler at
9 her, I know she gave money to her when she was
10 having problems.

11 So I can't condemn Susan because I
12 know she has a good heart and good side. I
13 just don't know why she behaves in the way she
14 does. I'm not a psychiatrist, so I don't know,
15 but that's all I have to say.

16 Q. Did you report any of Susan's
17 conduct to anyone at University Hospitals?

18 A. I had mentioned about coming into a
19 mess to various bosses. I had mentioned it to
20 Jason for sure, I had mentioned it to Rachael
21 for sure, and I had mentioned it to my current
22 boss, Patricia Tumbush, that, you know, I can't
23 come walking into this mess all the time, it's
24 not necessary, and could she maybe mention or
25 could somebody maybe do something about it.

1 For the longest time nothing was
2 done, but I think in the last, like I said, two
3 years that Patty has been there that she did
4 something because, like I say, Susan's work as
5 far as I'm concerned has improved tremendously.

6 Q. These events with Anna Penko,
7 Glenn, and Lacey, what time frame did those
8 events occur?

9 A. Well, Anna Penko's was during the
10 time Rachael was there, and Anna, I can't
11 remember when she came, so I would say probably
12 anywhere from 2014 to 2017 maybe.

13 Q. What about Glenn Johnson?

14 A. Well, Glenn was an ongoing thing,
15 so it could have been back around 2011 to 2016.
16 It could have been ongoing all that time.

17 Q. You indicated with regard to Glenn
18 that he went to Jason?

19 A. In 2011 he did. He went to Jason
20 about switching weekends, and they switched
21 out, but he still had to work with Susan during
22 the week, and he still had difficulties.

23 Q. What about Lacey Minnick?

24 A. Lacey left to open a restaurant.
25 So I would say the time period was probably

1 around the same time as Anna Penko, between
2 maybe like 2014 to 2015 maybe, because I think
3 Lacey has been gone for a few years now.

4 Q. Is there anything else that you can
5 think of that Susan Thabit did for which she
6 was not disciplined that you know of?

7 A. I can't think of anything.

8 Q. What about George Brown, what did
9 George Brown do that warranted discipline in
10 your mind?

11 A. I found out about this, and I
12 actually reported it to compliance, to Wendy
13 Henoch in compliance. Rick Wise is a pharmacy
14 technician, and George Brown is a pharmacist.
15 George, once again, he had a tendency, and I'll
16 use the word pick on, to pick on Rick Wise, to
17 criticize his work, to criticize things he was
18 doing. Rick had told me this I don't know how
19 long after it had occurred, that Rick was on a
20 counter near a printer, and George came up
21 behind him, grabbed him by both arms and
22 shoulders, and told him get out of my way and
23 tossed him aside.

24 Rick went to HR, and Rick, I think
25 he also went to compliance, and I assume -- I

1 mean, I don't assume. To me that was a pretty
2 big infraction, to put your hands on somebody.
3 I always try to compare these things to things
4 that I've gotten accused of, and I can only
5 imagine if had I put my hands on somebody and
6 thrown them out of the way and said get out of
7 my way what would have happened to me.

8 Q. Do you know if George Brown was
9 ever counseled or disciplined for that?

10 A. He may have been counseled, but he
11 wasn't blocked from bidding on another job
12 because he bid on a job downtown. So if he was
13 counseled, he wasn't counseled in a manner that
14 if you look under UH policy, he really probably
15 should have been discharged for grabbing
16 another individual, and he's still working
17 there to this day. Once again, I have nothing
18 against George Brown, I'm on a friendly basis
19 with George, but --

20 Q. Is there anything else that George
21 Brown did that you believe warranted
22 discipline?

23 A. Glenn Johnson reported him for the
24 very thing that Rick Wise reported him. George
25 was in charge of monitoring aseptic technique,

1 how we made IV add mixtures, and he made it as
2 rough as he could on Glenn, and Glenn just
3 thought that what he was doing was abusive,
4 what he was making him do, and he reported him,
5 and I do not think that George was ever
6 formally disciplined. He may have been talked
7 to and told to back off, but I remember Glenn
8 was very upset over the whole -- whole
9 incident.

10 Q. Do you know the time frame of the
11 Glenn Johnson situation?

12 A. You know, George has been gone for
13 a couple of years now, so I would say probably
14 2015 to 2017.

15 Q. Is there anything else you can
16 think of related to George Brown?

17 A. I know that many people complained
18 about him, about his personality. I don't know
19 where they went with those complaints, but I
20 know that he wasn't -- he wasn't well liked.
21 Once again, he was a complex person, too, and I
22 saw maybe a different side because we were
23 peers.

24 So he didn't treat me -- he even
25 treated me in a manner like that one time, one

1 or two times, but it wasn't like -- you know, I
2 sort of considered the source as far as things
3 go, and I think I did write an email to
4 somebody about the way he had conducted himself
5 that wasn't necessary around me.

6 But I remember George's brother
7 committed suicide, and I remember crying with
8 him, and George had two boys who were my sons'
9 ages, and so we used to talk about the boys a
10 lot, and I consider him a friend, but I know
11 that he -- a lot of people were glad when he
12 left, so I don't know if others complained
13 about him or not.

14 Q. What about Larry Schepps,
15 S-C-H-E-P-P-S?

16 A. Larry is a pharmacist, and he
17 worked part time at this stage of his career
18 when I knew him. He had been there full time
19 for years. He's in his 70s now. I told you
20 Susan Thabit, a lot of people had issues with
21 her not doing work.

22 Because I work third shift, I'm not
23 aware of what goes on on first shift, the
24 relationships and things as much as other
25 people are. One day everybody was all agog

1 because Susan would usually come in around 1:00
2 or 2:00, and then she would get lost for a few
3 hours. That was a really busy time, and they
4 needed somebody to help with the work.

5 So Larry, he used to get -- the
6 workload affected him greatly. It would make
7 him nervous or whatever. He was older and past
8 his prime and not used to the new systems that
9 were there, so naturally he was having
10 difficulty with it.

11 This was a day he needed some help
12 over there, and Susan was sitting across the
13 hall for like an hour-and-a-half when she came
14 in. So Larry went across the hall, and he
15 swore at her. He said, God damn it, Susan.
16 I'm paraphrasing. I know he said God damn it.
17 I don't know how exactly he said it, but what
18 they told me was he said, God damn it, Susan.
19 You need to get off your lazy behind and get
20 over there because we're getting buried.

21 So I knew about that incident, and
22 I knew about other incidents from techs where
23 Larry would slam the phone down on nurses and
24 hang up on them. Like I said, I'm not trying
25 to paint myself as a saint or anything like

1 this, but once again, I only compare what other
2 people seem to get away with things -- I never
3 slam a phone receiver down because I'm never on
4 a phone receiver, I'm always on speaker phone,
5 so I never hang up on anybody or do anything
6 like that, but, you know.

7 Q. Do you know if any of this conduct
8 by Larry was reported to anyone at University
9 Hospitals?

10 A. I want to say that Rachael heard
11 him say that because it was over near her
12 office, and I want to say that people said he
13 got called into the office. But as far as
14 formal counseling, it did not look like Larry
15 was ever formally counseled.

16 Q. Do you know if he was or he wasn't?

17 A. I do not know.

18 Q. Is there anything else that you can
19 think of that Larry did that warranted
20 discipline?

21 A. No. Like I said, just yelling at
22 nurses on the phone or hanging up on them.

23 Q. Tell me about Lisa. How do you
24 pronounce her last name?

25 A. You know what? I'm not even sure.

1 That's her maiden name. I would say
2 Wojotowitz. Lisa is a pharmacist who is a
3 saintly person. She is a very good person, but
4 she tries too hard sometimes to please. She is
5 my opposite. I work seven days in a row on
6 third shift, Lisa works the opposite seven days
7 of me, so her and I never work together.

8 But one time, and I don't know how
9 many years ago this was, but I know Rachael was
10 in charge, and a nurse had an upset stomach, a
11 bad upset stomach, and there is a prescription
12 medicine called ondansetron which is for nausea
13 and vomiting, but it's a prescription, and Lisa
14 gave that nurse an ondansetron, and the reason
15 Lisa gave her the ondansetron was the nurse had
16 taken an ondansetron out of a patient's
17 medication drawer, so she wanted to replace the
18 one she had taken.

19 It turned into a really big deal
20 thing where the nurse was -- she was
21 given -- she was suspended for a very long
22 time. I think that she was fired officially,
23 and then she appealed it somehow, and somehow
24 she got back in with a suspension, but she left
25 soon after that. The pharmacy part of it ended

1 up being a huge deal that Lisa gave her that
2 prescription medication even though it wasn't a
3 controlled substance or anything and she only
4 did it once. But in this day and age with the
5 way everything is, it was a huge deal.

6 All the pharmacists got called up
7 to HR, and we all had to promise never to give
8 anything out, not even a Tylenol to somebody
9 with a headache. At that time we all feared
10 that Lisa was going to get fired or suspended,
11 and she didn't, which I'm happy about.

12 But once again, the only thing that
13 I say is God help it if it was me that did that
14 because I would for sure think that it would be
15 handled differently. That's my opinion.

16 Q. Is there anyone else that you can
17 think of that committed similar infractions to
18 you, but those infractions were ignored?

19 A. I think there might be one other
20 person, and I'm trying to think about it. I
21 can't think of the person right now.

22 MS. ISRAEL: Let's take a break and
23 go off the record.

24 (Brief recess.)

25 Q. Mr. Dundee, I want to direct your

1 attention back to Exhibit 3 again. In response
2 to Interrogatory No. 12, you indicated that
3 other staff members had written humorous asides
4 as well. Do you recall any of those humorous
5 asides and who they were written by?

6 A. The only humorous asides that I can
7 recall were ones that were written by me. I
8 often wrote a little commentary. I seem to
9 think I'm funny. I don't know if other people
10 do, but I try to keep the banter going.

11 But when I drive into University
12 Hospital Geauga, I have to go through Route 168
13 which is in an Amish area, so they have buggies
14 out all the time, so it makes it kind of
15 difficult sometimes. One night I don't know
16 what was going on, but there were buggies
17 everywhere, and I couldn't pass them because
18 they were all lined up. I don't know if they
19 were having a festival, it was a funeral, or
20 what.

21 I remember when I went to work,
22 this girl, this tech, Gina, takes care of our
23 time exception logs, and so I remember writing
24 on there that it was like Amish Armageddon, and
25 I thought that was pretty funny, and I tried to

1 explain why I couldn't pass these people and
2 stuff. I would make other comments like that.

3 Susan and I had a regular thing
4 going on which was what we were continuing that
5 night. She would ask me to do something or she
6 would ask to do something, and I would write
7 something on there. She would just -- I would
8 say, well, is this okay, and what I wrote was
9 just humorous and positively false, and she
10 would just laugh like crazy, and then she would
11 usually scratch it out or something, but not
12 all the time.

13 So I know that I made numerous
14 comments probably on a pay period basis, that I
15 would make some sort of comment or draw a
16 little picture or something. These sheets were
17 nothing formal. They were just a sheet of
18 paper that it wasn't -- it was just our
19 department's way of handling this, and they
20 would just make copies of it and keep it going.

21 So it wasn't anything where, you
22 know, that it was an on-line time and
23 attendance thing. It was just something
24 informal that if something untoward came up,
25 you forgot your badge or you did something,

1 those were types of exceptions, or if you ran
2 late, whether it was because of weather,
3 because of the Amish, or because of whatever.
4 So you would write these things on there. I
5 know that other people had written some
6 humorous things.

7 In fact, Ms. Lerman, regardless of
8 me filing a suit, she had a good sense of
9 humor, too, and she used to enjoy posting
10 little things or writing little notes. I can't
11 say that she wrote little notes on that for
12 sure, but I do seem to remember her
13 writing -- finding some of my notes that I put
14 on there when she was handling it humorous
15 because she would tell me about them or she
16 would, I don't know, write something or other
17 or a note, or she would tell me face to face
18 that it was funny or something like that. Not
19 every interaction I had with her was terrible.
20 It just got terrible, but it wasn't terrible.
21 But, like I said, other people --

22 But here's the thing about that
23 time and attendance situation, when we met on
24 8-5-16 and Jason was bringing that up, that
25 could have been my way out of there. Why

1 didn't they write me up for that? I mean, were
2 they just being nice or what? Because he could
3 have wrote me up. He could have made it a
4 formal discipline and written me up, and I
5 would have been at the point that I was on
6 June 26th, 2017. I would have been at the last
7 step.

8 But in my opinion the reason he
9 didn't write me up and the only reason he
10 threatened me was that he thought that that
11 meeting would go poof, that there was no proof
12 we ever met, that nothing ever happened, that
13 they intimidated me, did a materially adverse
14 action and they thought it was going to go
15 poof, but they didn't count on Phil Snyder
16 hearing him call me to that meeting.

17 Q. What is the basis for your belief
18 that Jason intended to hide the existence of
19 that meeting?

20 A. Well, the position statement
21 that -- that not just Jason, but Danialle
22 Lynce, the position statement, the two position
23 statements that Danialle Lynce wrote in
24 response to my EEOC filing make no mention of
25 that 8-5-2016 meeting, and in fact Ms. Lynce in

1 her position statement states, paraphrasing
2 again, that she has no idea of what protected
3 activity I was referring to.

4 That's what makes me think that
5 they -- and I stated as much when on Monday,
6 that following Monday, two days later after
7 this meeting, I wrote to compliance, to Ed
8 Soyka, telling him that they had violated EEOC
9 rules against retaliation against a protected
10 activity, and I told him that I was threatened
11 with future action, but they didn't act on it
12 at that point because then it would have
13 confirmed what they were doing.

14 But once again, the increased
15 scrutiny that they promised was retaliation.
16 So regardless of what they did, they retaliated
17 against me by threatening me and promising
18 increased scrutiny going forward and
19 threatening me with termination.

20 I'm sorry. I'm talking louder. I
21 apologize.

22 Q. No need to apologize.

23 In your complaint you mention
24 defendants' threats, and we've discussed today
25 the threats that you say were made during the

1 August 2016 meeting by Jason and Danialle that
2 you would be subject to termination if you
3 engaged in similar behavior such as the notes
4 that were discussed with you; is that right?

5 A. Correct.

6 Q. Are there any other threats that we
7 haven't discussed today that UH or any of its
8 employees made towards you?

9 A. Well, I was threatened by Shawn
10 Osborne in a letter that I received in November
11 of 2017, and it was a very direct letter that
12 said that unless I attended an EAP session by
13 12-7-2017 I could be terminated. It was -- I
14 got the letter two days before Thanksgiving,
15 but I think it was written earlier, and he
16 threatened me with termination if I did not
17 attend that EAP session.

18 Q. Any other threats that you can
19 think of?

20 A. At this moment I can't think of any
21 other threats.

22 Q. Also in your complaint when you're
23 talking about your hostile work environment,
24 you state that the hostile work environment was
25 created by Ms. Lynce, Ms. Lerman, and others

1 who were complicit in the conspiracy. What
2 conspiracy are you referring to?

3 A. Once again, I go back to the fact
4 that I didn't depose anyone, and I think I
5 stated in that that things would be revealed
6 once I took depositions. Jason Glowczeski, the
7 morning of that meeting I had to pull my car
8 around to the other side of the hospital, the
9 meeting of 8-5-2016. As I'm pulling around,
10 Jason pulls in practically next to me. Jason
11 is a nice guy. Once again, I'm suing nice
12 people. But he is a nice guy, and he was a
13 good boss. He looked distraught to me when we
14 were walking in. I mean, he looked like he was
15 walking the Green Mile when we were walking in
16 that morning together. He hardly said a word.
17 He looked troubled to me. He just wasn't
18 acting himself.

19 At that point he was pretty high up
20 in the -- he was still in the pharmacy chain of
21 command, but he was pretty high up. Rachael
22 had taken his job, and he was a regional
23 manager now at this point. So there aren't too
24 many people that could order him to do
25 something if he didn't want to, and Danialle

1 Lynce I don't think could order him to attend
2 this meeting on 8-5-2016 on her own. I don't
3 think she had the stature to do that.

4 In my estimation somebody higher up
5 had to be involved to compel Jason to come to a
6 meeting that he clearly didn't want to attend.
7 Even when he was in there threatening me, it
8 wasn't with the same vitriol that Danialle
9 Lynce was threatening me. So I knew that he
10 didn't want to be there.

11 Then when I got that letter from
12 Shawn Osborne those few days before
13 Thanksgiving in 2017, I saw a co-signature on
14 there was Attorney Heather Harmon, UH HR. I
15 said, boy, this got -- this whole thing is
16 pretty high up because I had never heard of
17 Ms. Harmon before, but she obviously was -- you
18 know, they threw her name on there to give it
19 some punch. Here I've got an attorney's name
20 on this sheet from Shawn Osborne who is as high
21 up in the pharmacy chain of command that you
22 can get.

23 So for Shawn Osborne to write that
24 letter, he had to be compelled also by somebody
25 who was in the chain of command. That was

1 my -- that's what I surmised, and that's what I
2 thought I was going to find out deposing
3 people.

4 The other thing I thought I was
5 going to find out was about Rebecca Besselman
6 who was the HR rep that I wrote those two
7 emails that got me written up. She was
8 assigned by compliance to sit in on every
9 interaction that I had with Rachael Lerman
10 because I had gone to compliance several times
11 about the hostile work environment.

12 So they said that this third-party,
13 supposedly neutral -- and I do say that Rebecca
14 Besselman was pretty neutral most of the time.
15 She sat in on an evaluation, she sat in on any
16 discipline hearing, and she and I got to be
17 friends because when I met her she had
18 bronchitis really bad, and she was coughing
19 when I was in there, and I told her, I go, You
20 got Flonase at home? She said, Yeah. I said,
21 Just get Flonase and use it for a few days
22 twice a day, I said, because sometimes this
23 affects this, so do that. The next time that
24 we met she told me that that had worked for
25 her, and we had joked many times after that.

1 We had had jokes many times after that.

2 The thing that really made me think
3 that other people were complicit in this was
4 those two emails were sent to Rebecca
5 Besselman, and any reasonable person that would
6 read her responses to those emails, because she
7 didn't take note of those phrases at all, and
8 she just glossed over them. In fact, she made
9 a joke with the first email that she sent back
10 to me about her office being so cold that she
11 couldn't type.

12 That is where the complicity comes
13 in, too, because Rebecca Besselman quit about
14 two to three weeks after that June 26th, 2017,
15 write-up, and I want to know and I've always
16 wanted to know and I've asked it and it's in my
17 -- and it's in the exhibits that I put in my
18 motion for summary judgment, I want to know and
19 I've asked for many years who filed the
20 complaint against me for those phrases that I
21 made to Rebecca Besselman, and I can't get an
22 answer, and I don't know why Rebecca quit after
23 that, either.

24 So once again, had I deposed
25 Rebecca Besselman and maybe had I deposed Steve

1 Jones who was over everybody there and who I
2 had written to in the past about a hostile work
3 environment as well, I may have found out who
4 was complicit in this ever.

5 Once again, when I put my motion
6 for summary judgment in, I didn't want the
7 excess noise. It didn't matter who was
8 complicit in it I had decided. That would just
9 be extraneous noise. I felt I had enough
10 evidence and based on the law that my motion
11 for summary judgment was enough without that
12 other stuff.

13 Q. Other than the people that we've
14 talked about today, are you aware of anybody
15 else at University Hospitals who was
16 responsible for creating a hostile work
17 environment or retaliating against you?

18 A. At this moment I'm not aware.

19 - - - - -

20 (Thereupon, Deposition Exhibit 4, a
21 Document Bates Labeled UH-Dundee
22 0036, was marked for purposes of
23 identification.)

24 - - - - -

25 Q. I'm going to hand you next what's

1 been marked as Defendant's Exhibit 4. Do you
2 recognize that document?

3 A. When did I write this? There were
4 so many things in the beginning. Yes, I do
5 remember this. I do remember this.

6 Q. What is Exhibit 4?

7 A. It's my charge of -- is this age
8 discrimination? Yes. It was an age
9 discrimination lawsuit that I filed -- not
10 lawsuit, an age discrimination complaint I
11 filed with the Cleveland EEOC.

12 Q. Is that your signature at the
13 bottom?

14 A. Yes, it is.

15 Q. This indicates that you submitted
16 this charge on November 12th, 2013. Is that
17 consistent with your recollection?

18 A. Yes, it is.

19 Q. This charge relates to a pamphlet
20 for EAP that you found in your locker in
21 October of 2013; is that right?

22 A. Correct. But it also spoke to the
23 hostile work environment as well.

24 - - - - -

25 (Thereupon, Deposition Exhibit 5, a

1 Document Bates Labeled UH-Dundee
2 0204 through 0207, was marked for
3 purposes of identification.)

4 - - - - -

5 Q. I'm going to hand you Defendant's
6 Exhibit 5. Do you recognize that document?

7 A. I recognize it. I just have to
8 find out when I wrote it. Yes, I do recognize
9 it.

10 Q. Is that your signature on the last
11 page?

12 A. Yes, it is. Well, it was a -- it
13 was a PDF signature, yes.

14 Q. Your electronic signature?

15 A. Yes, an electronic signature.

16 Q. What is this document?

17 A. This -- I have to make sure, my
18 eyes are kind of going a little goofy right
19 now, if this is the first one that I filed. I
20 have to find the date on here. I'm sorry.

21 Q. The date is on the last page near
22 your signature, August 19th, 2017.

23 A. Yes. Okay. This was -- this was
24 the first complaint I made about retaliation
25 against a protected activity.

1 Q. Do you know if this intake
2 questionnaire and complaint became an official
3 EEOC charge?

4 A. Yes, it did.

5 - - - - -

6 (Thereupon, Deposition Exhibit 6, a
7 Document Bates Labeled UH-Dundee
8 0208 through 0211, was marked for
9 purposes of identification.)

10 - - - - -

11 Q. I'm handing you Defendant's
12 Exhibit --

13 A. Should I put these down?

14 Q. Yes. You can set those down. I'm
15 handing you Defendant's Exhibit 6. Do you
16 recognize that document?

17 A. Yes, I think I do. Let me see
18 here. Yes. This is -- this is my ADA, first
19 ADA complaint that I filed with the EEOC
20 Cleveland office.

21 Q. Is that your electronic signature
22 on the last page?

23 A. Yes, it is.

24 Q. This indicates that you submitted
25 this intake questionnaire on August 23rd, 2017;

1 is that right?

2 A. That is correct.

3 Q. Do you know if this intake
4 questionnaire became a formal EEOC charge?

5 A. It did.

6 Q. You can set that aside.

7 - - - - -

8 (Thereupon, Deposition Exhibit 7, a
9 Document Bates Labeled UH-Dundee
10 0212, was marked for purposes of
11 identification.)

12 - - - - -

13 Q. Take a look at Defendant's
14 Exhibit 7, and let me know if you've seen that
15 document before.

16 A. Yes, I have.

17 Q. Is that your signature at the
18 bottom?

19 A. Yes, it is.

20 Q. What is this document?

21 A. I filed with the Ohio Civil Rights
22 Commission a charge of discrimination, once
23 again, it's under the Title I of the ADA, for
24 being forced to submit to mandatory EAP
25 counseling sessions.

1 Q. Did you sign and submit this charge
2 of discrimination on September 14th, 2017?

3 A. I don't think so. Wait a second.
4 I don't think I did. I thought this was more
5 in the spring of 2018. Well, what's that say?
6 9-14-17.

7 Q. If you want to read silently to
8 yourself so she doesn't have to try to take
9 down your mumbles, that would be helpful.

10 A. I'm so sorry. I must have filed
11 this at 9-14-17, yes.

12 - - - - -

13 (Thereupon, Deposition Exhibit 8, a
14 Document Bates Labeled UH-Dundee
15 0276 through 0279, was marked for
16 purposes of identification.)

17 - - - - -

18 Q. I'm handing you Defendant's
19 Exhibit 8. Do you recognize that document?

20 A. Yes, I do.

21 Q. What is it?

22 A. Yeah. This document doesn't have
23 anything to do with my lawsuit. This is a
24 document I filed because I felt that the
25 hospital wasn't discussing an accommodation for

1 my handicap in good faith, but this has nothing
2 to do with the lawsuit that we're discussing.

3 Q. Is this your signature on the last
4 page?

5 A. Yes, it is.

6 Q. This is a charge of discrimination
7 for disability discrimination signed by you and
8 submitted on September 2nd, 2018; is that
9 right?

10 A. Yes, but I withdrew this.

11 Q. So no formal charges?

12 A. No. I withdrew that. Heather
13 Harmon had made some inroads in our
14 discussions, and I told her because she had
15 shown such good faith that I would drop the
16 charge.

17 MS. ISRAEL: Let's go off the
18 record for a minute.

19 (Brief recess.)

20 - - - - -

21 (Thereupon, Deposition Exhibit 9, a
22 Document Bates Labeled UH-Dundee
23 0092, was marked for purposes of
24 identification.)

25 - - - - -

1 Q. I'm handing you Defendant's
2 Exhibit 9. Do you recognize that document,
3 Mr. Dundee?

4 A. Yes, I do recognize it.

5 Q. The top portion of that document is
6 a copy of a handwritten note. Is that your
7 handwriting?

8 A. No, it's not my handwriting.

9 Q. Do you know whose handwriting it
10 is?

11 A. I know now. I didn't know at the
12 time. You know what? I can't say that I know
13 now. I don't know whose it is to tell you the
14 truth.

15 Q. The bottom half of the page
16 includes some typewritten text. Is that your
17 text?

18 A. It certainly is.

19 Q. And you wrote that message?

20 A. Yes, I did.

21 Q. You can set that aside.

22 - - - - -

23 (Thereupon, Deposition Exhibit 10, a
24 Document Bates Labeled UH-Dundee
25 0117, was marked for purposes of

1 identification.)

2 - - - - -

3 Q. I'm handing you next Exhibit 10. I
4 want you to focus on the lower right-hand
5 corner here. There is a little bit of cutoff,
6 but if you could tell me if you recognize this
7 handwriting here and what does it say.

8 A. "She forced me to sign this.
9 Help."

10 Q. Whose handwriting is that?

11 A. That's me.

12 Q. You wrote that note on that
13 timekeeping exception log?

14 A. Yes, I did.

15 - - - - -

16 (Thereupon, Deposition Exhibit 11, a
17 Document Bates Labeled UH-Dundee
18 0118, was marked for purposes of
19 identification.)

20 - - - - -

21 Q. I'm going to hand you next
22 Defendant's Exhibit 11 and direct your
23 attention to this highlighted handwriting here
24 in the middle. If you could take a look at
25 that, and let me know if you can read it.

1 A. Yes. That's mine.

2 Q. What did you write on that log?

3 A. I said, "Not sure if she left then.
4 I wasn't at the time clock. She may be lying."

5 Q. Who were you referring to in that
6 note?

7 A. Susan Thabit.

8 Q. Okay. Finally, I'm going to hand
9 you Defendant's Exhibit 12.

10 - - - - -

11 (Thereupon, Deposition Exhibit 12, a
12 Document Bates Labeled UH-Dundee
13 0152, was marked for purposes of
14 identification.)

15 - - - - -

16 Q. There is a highlighted typed
17 section here. If you could read that and let
18 me know if you answered that comment on the
19 log.

20 A. Let's see what it says. Where are
21 you showing me? I'm sorry.

22 Q. It's no problem. Here, this
23 highlighted typed section right in the middle
24 of the exhibit (indicating).

25 A. Yes. Yes, that would be -- yes,

1 because I couldn't write all of that on there.

2 Q. What did you type onto that form?

3 A. It says, "12-11-16 Frank, punch in
4 2116, extremely hazardous road conditions. I
5 feel that UH should pay me for travel time
6 under these conditions."

7 Q. Okay. That's all the questions
8 that I have for you today.

9 A. You are the best.

10 Q. Say that on the record, please.

11 We talked about a number of topics
12 today, and you indicated that you would let me
13 know if you thought of any additional
14 information such as peoples' names or events.
15 Have you thought of anything during our breaks
16 or during the time that you've been deposed
17 today?

18 A. I'll just find out that name of my
19 friend Sergio's cousin who works with the EEOC
20 because I have it, and I just can't believe I
21 can't think of it right now.

22 Q. Is there anything else that you
23 would like to add to your testimony today? I'm
24 not asking for a speech. I'm just asking for
25 additional evidence or information that you

1 might have that's relevant for your claims.

2 A. I don't have anything that I can
3 think of right now.

4 MS. ISRAEL: Thank you. I
5 appreciate your time, and this deposition is
6 concluded.

7 When this transcript is typed up,
8 you have an opportunity to read the transcript
9 and fill out what's called an errata sheet and
10 correct any errors, typos, mistakes that you
11 may have made in your testimony. You can
12 choose to read the transcript and sign, or you
13 can waive that right and allow the transcript
14 to stand as it is.

15 Do you want to make a decision on
16 that today?

17 MR. DUNDEE: You know, part of me
18 wants to just say it's all okay. I've already
19 put in for a summary judgment. I can waive
20 that.

21 MS. ISRAEL: He'll waive, and we
22 will take a copy.

23 (Deposition concluded at 12:23 p.m.)
24
25

1 Whereupon, counsel was requested to give
2 instruction regarding the witness's review of
3 the transcript pursuant to the Civil Rules.
4

5 SIGNATURE:

6 It was agreed by and between counsel and the
7 parties that the reading and signing of the
8 transcript of said deposition, be and the same
9 is hereby waived.
10

11 TRANSCRIPT DELIVERY:

12 Counsel was requested to give instruction
13 regarding delivery date of transcript.

14 Ms. Israel ordered the original
15 transcript regular delivery.

16 Mr. Dundee did not order a copy.
17
18
19
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21
22
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25

REPORTER'S CERTIFICATE

The State of Ohio,)

SS:

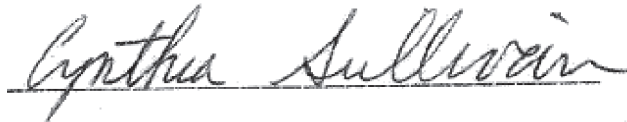
County of Cuyahoga.)

I, Cynthia Sullivan, RPR, a Notary Public within and for the State of Ohio, duly commissioned and qualified, do hereby certify that the within named witness, FRANK D. DUNDEE, was by me first duly sworn to testify the truth, the whole truth and nothing but the truth in the cause aforesaid; that the testimony then given by the above-referenced witness was by me reduced to stenotypy in the presence of said witness; afterwards transcribed, and that the foregoing is a true and correct transcription of the testimony so given by the above-referenced witness.

I do further certify that this deposition was taken at the time and place in the foregoing caption specified and was completed without adjournment.

1 I do further certify that I am not
2 a relative, counsel or attorney for either
3 party, or otherwise interested in the event of
4 this action.

5 IN WITNESS WHEREOF, I have hereunto
6 set my hand and affixed my seal of office at
7 Cleveland, Ohio, on this 19th day of
8 March, 2020.

9
10
11
12 
13

14 Cynthia Sullivan, Notary Public
15 within and for the State of Ohio
16

17 My commission expires October 17, 2021.
18
19
20
21
22
23
24
25

[& - accommodate]

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

Veritext Legal Solutions is committed to maintaining the confidentiality of client and witness information, in accordance with the regulations promulgated under the Health Insurance Portability and Accountability Act (HIPAA), as amended with respect to protected health information and the Gramm-Leach-Bliley Act, as amended, with respect to Personally Identifiable Information (PII). Physical transcripts and exhibits are managed under strict facility and personnel access controls. Electronic files of documents are stored in encrypted form and are transmitted in an encrypted fashion to authenticated parties who are permitted to access the material. Our data is hosted in a Tier 4 SSAE 16 certified facility.

Veritext Legal Solutions complies with all federal and State regulations with respect to the provision of court reporting services, and maintains its neutrality and independence regardless of relationship or the financial outcome of any litigation. Veritext requires adherence to the foregoing professional and ethical standards from all of its subcontractors in their independent contractor agreements.

Inquiries about Veritext Legal Solutions' confidentiality and security policies and practices should be directed to Veritext's Client Services Associates indicated on the cover of this document or at www.veritext.com.

From: Dundee, Frank
Sent: Thursday, June 23, 2016 10:48 PM
To: Besselman, Rebecca L
Subject: Sexual Harrassment

Dear Ms. Besselman,

Over a period of years, I have been subjected to unwelcome sexual conduct in the workplace by my supervisor, Ms. Rachael Lerman. I have not reported her unwelcome sexual overtures for fear of retaliation.

I would like to make a formal complaint as I have been subjected to a pattern of harassing behavior from Ms. Lerman, resulting in a hostile work environment, which I believe is directly attributable to the fact that I have not acquiesced or responded in-kind to my supervisor's sexual overtures. In addition, my supervisor is using the UH discipline policy in order to result in my constructive discharge, which I also believe is directly attributable to the fact that I have not acquiesced or responded in-kind to her unwelcome sexual overtures.

It is extremely stressful to have to file formal charges. It is something I have been trying to avoid. I was hoping over time that the situation would get better; it has not. I am requesting your assistance with how to proceed. I thank you for your consideration.

Frank Dundee R.Ph.



IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

FRANK DOMINIC DUNDEE,)	CASE NO. 1:19CV01141
)	
Plaintiff,)	JUDGE DAN AARON POLSTER
)	
v.)	
)	
UNIVERSITY HOSPITALS)	DEFENDANT UNIVERSITY HOSPITALS
CORPORATION, et al.,)	HEALTH SYSTEM, INC.'S FIRST SET OF
)	REQUESTS FOR ADMISSION TO
Defendants.)	PLAINTIFF
)	

NOW COMES Defendant University Hospitals Health System, Inc. ("University Hospitals"), by and through undersigned counsel, and hereby requests that Plaintiff Frank Dominic Dundee ("Plaintiff") respond separately and fully and under oath, in accordance with Rule 36 of the Federal Rules of Civil Procedure, to the following Requests for Admission within thirty (30) days after service.

REQUESTS FOR ADMISSION

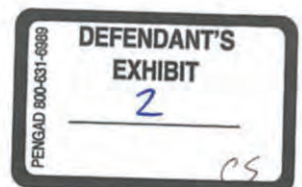
Request for Admission No. 1: University Hospitals has never failed to provide you with a reasonable accommodation that you have requested.

Response: The Plaintiff never requested an accommodation in the time period relevant to the claim.

Request for Admission No. 2: University Hospitals has always engaged in an interactive process with you regarding any accommodations you have requested.

Response: The Plaintiff never requested an accommodation in the time period relevant to the claim.

Request for Admission No. 3: The events that you allege were sexual harassment by Rachael Lerman occurred between Spring 2012 and October 2013.



Response: those are contained in the document filed with UH HR and sent to Rebecca Besselman, the HR representative and are in the FOIA records of the EEOC complaint.

Request for Admission No. 4: You were not demoted following your complaint of alleged sexual harassment by Rachael Lerman.

Response: No

Request for Admission No. 5: Your job duties and responsibilities were not altered following your complaint of sexual harassment by Rachael Lerman.

Response: The alteration was that keeping a clear mind on the job was much more difficult. The stress also impaired the Plaintiff's ability to walk at work. Both were a direct result the stress inflicted by being under threat of discharge from HR Representative Danialle Lynce and Jason Glowczewski during the meeting on 8/5/2017 at 7:00 am. The illegal retaliation by the two actually caused the harm that is alleged.

Request for Admission No. 6: You experienced no reduction in pay or benefits following your complaint of sexual harassment by Rachael Lerman.

Response: No

Request for Admission No. 7: You have remained a full time employee of University Hospitals between January 1, 2012 and the present.

Response: Yes.

Request for Admission No. 8: University Hospitals has not restricted you in any way or at any time from performing your job duties.

Response: No.

Respectfully submitted,

Kerin Lyn Kaminski (0013522)
Donald C. Bulea (0084158)
GIFFEN & KAMINSKI, LLC
1300 East Ninth Street, Suite 1600
Cleveland, Ohio 44114
Telephone: 216-621-5161
Facsimile: 216-621-2399
E-mail: kkaminski@thinkgk.com
dbulea@thinkgk.com

Counsel for Defendant University Hospitals Health Systems, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on November 14, 2019, a true and correct copy of *University Hospitals Health Systems, Inc. 's First Set of Requests for Admissions to Plaintiff* was served:

Via Electronic Mail and Regular U.S. Mail, postage prepaid upon the following Parties:

Frank Dominic Dundee
7707 Amberwood Trail
Boardman, Ohio 44512
fdundee@gmail.com
Pro Se Plaintiff

Donald C. Bulea (0084158)
Counsel for Defendant University Hospitals Health Systems, Inc.

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

FRANK DOMINIC DUNDEE,

Plaintiff,

v.

UNIVERSITY HOSPITALS
CORPORATION, et al.,

Defendants.

) CASE NO. 1:19CV01141

)

) JUDGE DAN AARON POLSTER

)

)

)

) **DEFENDANT UNIVERSITY HOSPITALS**
) **HEALTH SYSTEM, INC.'S FIRST SET OF**
) **INTERROGATORIES TO PLAINTIFF**

)

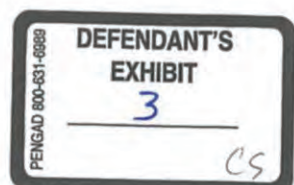
)

NOW COMES Defendant University Hospitals Health System, Inc. ("University Hospitals"),
by and through undersigned counsel, and hereby requests that Plaintiff Frank Dominic Dundee
("Plaintiff") answer separately and fully and under oath, in accordance with Rule 33 of the Federal Rules
of Civil Procedure, the following Interrogatories within thirty (30) days after service.

INTERROGATORIES

Interrogatory No. 1: Identify each and every person with whom you have consulted, or whom
you expect to call as an expert witness to testify on your behalf concerning the claims set forth in the
Complaint in this matter, and for each, what is the subject matter on which the expert is expected to
testify?

Answer: No one.



Interrogatory No. 2: Identify each and every person, other than experts, you anticipate calling as a witness to testify on your behalf concerning the claims set forth in the Complaint this matter, and for each, what is the subject matter on which the witness is expected to testify?

Answer: None

Interrogatory No. 3: Identify each person, other than experts, who has knowledge of the facts alleged in your Complaint, the damages allegedly suffered by you, and any of the efforts you made to mitigate such damages.

Answer: None

Interrogatory No. 4: Identify the date and describe each occurrence of “unwelcome sexual advances by Ms. Lerman,” as alleged in the Complaint [PageID# 12].

Answer: The question is not relevant to the claim. However the answer is in the charge of sexual harassment filed on 6/26/2016 with HR representative Rebecca Besselman which is in your possession.

Interrogatory No. 5: What is the substance of any and all communications you have had with any current and/or former employee(s), independent contractor(s), agent(s) and/or representative(s) of University Hospitals regarding your allegations of sexual harassment, and for each communication what is the identity of the person with whom you communicated and the dates of the communication?

Answer: None. Once again, the Plaintiff's claim does not concern sexual harassment. It is for retaliation against a protected activity.

Interrogatory No. 6: Describe each occurrence of your being subjected to a hostile work environment, as alleged in the Complaint [PageID# 3, 20], and for each occurrence, identify the date, place, the person or persons involved.

Answer: That information is in the personnel file at UH Geauga. Every formal/informal discipline was a manufactured event intended to harass the plaintiff. Please read the addendums attached to each record in the Plaintiff's UH personnel files for explanations.

Interrogatory No. 7: Describe each occurrence of your being “singled out for specious corrective actions,” as alleged in the Complaint [PageID# 12], and for each occurrence, identify your action and the corrective action, the date(s), and person or persons involved.

Answer: That information is in the personnel file at UH Geauga. Every formal/informal discipline was a manufactured event intended to harass the plaintiff. Please read the addendums attached to each record in the Plaintiff's UH personnel files for explanations.

Interrogatory No. 8: What is the factual basis of your allegation that similar "infractions...[of] others on the pharmacy staff" were "ignored" [PageID# 3].

Answer: I was a member of the pharmacy staff and was aware of other staff members, including Susan Thabit, George Brown, and Larry Schepps, Lisa Wojotowitz, whose infractions were more significant than any of the manufactured violations attributed to the Plaintiff.

Interrogatory No. 9: Identify and describe the occurrence or occurrences of "abuse" by Ms. Lerman and Ms. Lynce that caused you to file a report alleging sexual harassment against Ms. Lerman from "years earlier," as alleged in the Complaint [PageID# 13].

Answer: The question is not relevant to the claim of retaliation. However, the complete description can be found in the Plaintiff's UH personnel files and in the sexual harassment complaint filed with HR representative Rebecca Besselman.

Interrogatory No. 10: Identify the date and describe the substance of each report you filed with University Hospitals alleging harassment, hostile work environment, or retaliation and identify the University Hospital employee(s) with whom you filed the report.

Answer: See the attached emails to Attorney's Katherine Perry and Edward Soyka of Compliance and Attorney Heather Harmon of Human Resources.

Interrogatory No. 11: What is the substance of any and all communications you have had with any current and/or former employee(s), independent contractor(s), agent(s) and/or representative(s) of University Hospitals regarding your allegations of hostile work environment and retaliation, and for each communication what is the identity of the person with whom you communicated and the dates of the communication?

Answer: None.

Interrogatory No. 12: Identify each University Hospital employee who wrote "similar comment[s]" in the margins of Pharmacy Time Exception forms, as alleged in the Complaint [Page ID# 16].

Answer: The Plaintiff, himself, had written humorous comments many time on the Pharmacy Time Exception form and never been called out on them. Other staff members had written humorous asides as well. The records are in the possession of UH and should be readily available.

Interrogatory No. 13: What is the factual basis for your allegation that your June 26, 2017 meeting with Ms. Lynce and Ms. Lerman was “connected” to your August 5, 2016 meeting with Ms. Lynce and Mr. Glowczewski, as alleged in the Complaint [Page ID# 19]?

Answer: The factual basis for the direct relationship was that such action had been threatend in the critical meeting of 8/5/2016, at 7:00 am, by Danialle Lynce and Jason Glowczewski. A reasonable person would examine the suspicious timing, manufactured and specious and outrageous reasons for the materially adverse action of the June 26, 2017 final warning as meeting the causation standard that requires that the evidence cleary demonstrates that "but for" a retaliatory motive, Ms. Lynce and Ms. Lerman would not have taken the adverse action. June 26, 2017 was the one-year anniversary from the Plaintiff filing the charge of sexual harassment against Ms. Lerman. That was not coincidental and sent a message to the Plaintiff.

Interrogatory No. 14: Identify the University Hospitals policy that precluded the warning issued to you on June 26, 2017 as alleged in the Complaint [Page ID# 19-20].

Answer: The policy is noted in the FOIA records of the EEOC investigation and is also noted on the actual discipline form from HR and in the Plaintiff's personnel file.

Interrogatory No. 15: Identify each University Hospital employee who engaged in “conspiracy and complicity” in retaliation against you or by creating a hostile work environment, as alleged in the Complaint [PageID# 28].

Answer: The Plaintiff has filed a Motion for Summary Judgement and in so doing will not be deposing anyone who may have been complicit. The Plaintiff is relying on them material facts and feels that depositions will only create noise around those facts.

Interrogatory No. 16: Identify each person from whom you have obtained or solicited any written or recorded statement or affidavit relating to any of the facts or allegations set forth in your Complaint.

Answer: None obtained. The identity of those solicited is listed in the Discovery exchanged earlier with your office and in the Plaintiff's request for production.

Interrogatory No. 17: State the name, case caption, date and venue of all other claims, lawsuits, administrative charges, complaints or settlement agreements filed by or against you, or that involve you in any way including those in which you provided any type of testimony.

Answer: None.

Interrogatory No. 18: What is the type and specific amount of damages you seek in this matter and for each damage amount what is the method of calculation you used to determine the amount?

Answer: The Plaintiff seeks the maximum award for punitive damages under EEOC recommendations of \$300,000 for employers with more than 500 employees for each of the three violations in the claim: \$300,000 for the retaliation claim under Title VII, \$300,000 for unlawful medical examination for "perceived disability" under Title I of the ADA, and \$300,000 for an unlawful medical examination under Title I of the ADA that was neither job-related nor consistent with business necessity, as well as any damages that the Court sees fit to apply.

Interrogatory No. 19: Identify each and every health care provider (including physicians, psychiatrists, psychologists, therapists, mental health professionals, social workers, counselors, hospitals, clinics, and health care facilities of any type) consulted by you with respect to any allegation or item of damages you will claim in this lawsuit or with respect to any action or inaction by University Hospitals.

Answer: None.

Respectfully submitted,

Kerin Lyn Kaminski (0013522)
Donald C. Bulea (0084158)
GIFEN & KAMINSKI, LLC
1300 East Ninth Street, Suite 1600
Cleveland, Ohio 44114
Telephone: 216-621-5161
Facsimile: 216-621-2399
E-mail: kkaminski@thinkgk.com
dbulea@thinkgk.com

Counsel for Defendant University Hospitals Health Systems, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on November 14, 2019, a true and correct copy of *University Hospitals Health Systems, Inc. 's First Set of Interrogatories to Plaintiff* was served:

Via Electronic Mail and Regular U.S. Mail, postage prepaid upon the following Parties:

Frank Dominic Dundee
7707 Amberwood Trail
Boardman, Ohio 44512
fdundee@gmail.com
Pro Se Plaintiff

Donald C. Bulea (0084158)
Counsel for Defendant University Hospitals Health Systems, Inc.

STATE OF _____)
)
COUNTY OF _____) SS: **VERIFICATION**

I, Frank Dominic Dundee, being first duly sworn according to law, depose and state that I have carefully read the answers to the foregoing Interrogatories and that they are true and accurate to the best of my knowledge and belief.

Frank Dominic Dundee

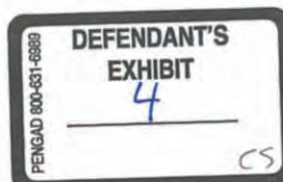
Date

SWORN TO BEFORE ME, this _____ day of _____, 2019.

NOTARY PUBLIC

EEOC Form 5 (11/09)

CHARGE OF DISCRIMINATION		Charge Presented To: Agency(ies) Charge No(s):	
This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.		<input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC 532-2014-00108	
Ohio Civil Rights Commission and EEOC			
State or local Agency, if any			
Name (indicate Mr., Ms., Mrs.)		Home Phone (Incl. Area Code)	Date of Birth
Frank Dundee		(330) 726-2662	08-17-1953
Street Address		City, State and ZIP Code	
7707 Amberwood Trail, Boardman, OH 44512			
Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)			
Name		No. Employees, Members	Phone No. (Include Area Code)
UNIVERSITY HOSPITALS		500 or More	(440) 285-6000
Street Address		City, State and ZIP Code	
13207 Ravenna Road, Chardon, OH 44024			
Name		No. Employees, Members	Phone No. (Include Area Code)
EEOC CLCC CART UNIT			
Street Address		City, State and ZIP Code	
NOV 13 2013			
RECEIVED			
DISCRIMINATION BASED ON (Check appropriate box(es).)		DATE(S) DISCRIMINATION TOOK PLACE	
<input type="checkbox"/> RACE <input type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN <input type="checkbox"/> RETALIATION <input checked="" type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> GENETIC INFORMATION <input type="checkbox"/> OTHER (Specify)		Earliest Latest 08-26-2013 10-04-2013 <input type="checkbox"/> CONTINUING ACTION	
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)).			
<p>I was hired as a Staff Pharmacist in April of 2010. In the last 18 months, managers have created culture of divisiveness within the department, based on age, that demeans and threatens the role and continued employment of the older, staff pharmacists, as providers of care.</p> <p>On October 4, 2013, I discovered a pamphlet for the EAP in my locker. Ms. Lerman, with the approval of Ms. Lynce, was responsible. I viewed this action as a grievous personal affront to my dignity and character, and as a method of harassment. The action, along with a pattern of intimidating behavior, has been emotionally damaging. Ms. Lynce, as an agent of the human resource department of UH, was negligent by not stopping such behavior. Ms. Lerman, as my supervisor, is empowered to take tangible employment actions like hiring, firing, promoting, demoting or reassigning employees to significantly different responsibilities.</p> <p>I believe I have been subjected to different terms and conditions of employment, due to my age, 60, in violation of the Age Discrimination in Employment Act of 1967 (ADEA), as amended.</p>			
I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.		NOTARY - When necessary for State and Local Agency Requirements	
I declare under penalty of perjury that the above is true and correct.		I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.	
Date <u>11-12-13</u> Charging Party Signature <u>[Signature]</u>		SIGNATURE OF COMPLAINANT	
		SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year)	



UH-Dundee 0036



EQUAL EMPLOYMENT OPPORTUNITY COMMISSION INTAKE QUESTIONNAIRE

Please immediately complete the entire form and return it to the U.S. Equal Employment Opportunity Commission ("EEOC"). **REMEMBER**, a charge of employment discrimination must be filed within the time limits imposed by law, generally within 180 days or in some places 300 days of the alleged discrimination. Upon receipt, this form will be reviewed to determine EEOC coverage. **Answer all questions as completely as possible, and attach additional pages if needed to complete your response(s). If you do not know the answer to a question, answer by stating "not known." If a question is not applicable, write "n/a." Please Print.**

1. Personal Information

Last Name: Dundee First Name: Frank MI: D
 Street or Mailing Address: 7707 Amberwood Trail Apt Or Unit #: _____
 City: Boardman County: Mahoning State: Ohio ZIP: 44512
 Phone Numbers: Home: (330) 7262662 Work: (440) 2856000
 Cell: (330) 3988274 Email Address: fdundee@gmail.com
 Date of Birth: ██████ 953 Sex: Male ☒ Female ☐ Do You Have a Disability? ☒ Yes ☐ No
Please answer each of the next three questions. i. Are you Hispanic or Latino? ☐ Yes ☒ No
 ii. What is your Race? Please choose all that apply. ☐ American Indian or Alaska Native ☐ Asian ☒ White
☐ Black or African American ☐ Native Hawaiian or Other Pacific Islander
 iii. What is your National Origin (country of origin or ancestry)? USA

Please Provide The Name Of A Person We Can Contact If We Are Unable To Reach You:

Name: Patricia Ann Dundee Relationship: spouse
 Address: 7707 Amberwood Trail City: Boardman State: OH Zip Code: 44512
 Home Phone: (330) 7262662 Other Phone: (330) 5405995

2. I believe that I was discriminated against by the following organization(s): (Check those that apply)

☒ Employer ☐ Union ☐ Employment Agency ☐ Other (Please Specify) _____

Organization Contact Information (If the organization is an employer, provide the address where you actually worked. If you work from home, check here ☐ and provide the address of the office to which you reported.) **If more than one employer is involved, attach additional sheets.**

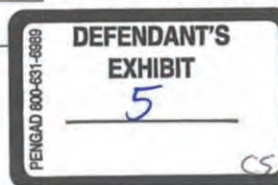
Organization Name: University Hospitals Geauga Medical Center
 Address: 13207 Ravenna Rd County: Gauga
 City: Chardon State: OH Zip: 44024 Phone: (440) 2856000
 Type of Business: Hospital System Job Location if different from Org. Address: _____
 Human Resources Director or Owner Name: Danialle Lynce Phone: 440285600

Number of Employees in the Organization at All Locations: Please Check (✓) One

☐ Fewer Than 15 ☐ 15 - 100 ☐ 101 - 200 ☐ 201 - 500 ☒ More than 500

3. Your Employment Data (Complete as many items as you can) Are you a Federal Employee? ☐ Yes ☒ No

Date Hired: 05/02/2010 Job Title At Hire: Staff Pharmacist
 Pay Rate When Hired: \$55.00/hr Last or Current Pay Rate: \$64.00/hr
 Job Title at Time of Alleged Discrimination: Staff Pharmacist Date Quit/Discharged: _____
 Name and Title of Immediate Supervisor: Racheal Lerman



UH-Dundee 0204

If Job Applicant, Date You Applied for Job _____ Job Title Applied For _____

4. What is the reason (basis) for your claim of employment discrimination?

FOR EXAMPLE, if you feel that you were treated worse than someone else because of race, you should check the box next to Race. If you feel you were treated worse for several reasons, such as your sex, religion and national origin, you should check all that apply. If you complained about discrimination, participated in someone else's complaint, or filed a charge of discrimination, and a negative action was threatened or taken, you should check the box next to Retaliation.

☐ Race ☐ Sex ☐ Age ☐ Disability ☐ National Origin ☐ Religion ☒ Retaliation ☐ Pregnancy ☐ Color (typically a difference in skin shade within the same race) ☐ Genetic Information; choose which type(s) of genetic information is involved:
☐ i. genetic testing ☐ ii. family medical history ☐ iii. genetic services (genetic services means counseling, education or testing)

If you checked color, religion or national origin, please specify: _____

If you checked genetic information, how did the employer obtain the genetic information? _____

Other reason (basis) for discrimination (Explain). _____

5. What happened to you that you believe was discriminatory? Include the date(s) of harm, the action(s), and the name(s) and title(s) of the person(s) who you believe discriminated against you. Please attach additional pages if needed.
(Example: 10/02/06 - Discharged by Mr. John Soto, Production Supervisor)

A) Date: 08/05/16 Action: Threatened with termination for demonstrably false reasons for filing a EEO protected activity of sexual harrasment against my supervisor on 6/26/2016.

Name and Title of Person(s) Responsible: Head of HR, Danialle Lynce; Regional Pharmacy Director Jason Glowczewski

B) Date: 06/26/17 Action: Called to HR and given final warning before termination for using the words, "you're a good kid", "he's a pup with little experience" and "he's a nice boy" in an email to HR rep

Name and Title of Person(s) Responsible: Head of HR, Danialle Lynce; Pharmacy Manager Rachael Lerman

6. Why do you believe these actions were discriminatory? Please attach additional pages if needed.

Suspicious timing. The causal link between the adverse action and the protected activity; Oral or written statements made by the individuals recommending or approving the challenged adverse action revealed retaliatory intent by expressing retaliatory animus and by revealing inconsistencies, pre-determined decisions, and other indications that the reasons given for the adverse action are false; Inconsistent and shifting explanations; evidence of selective enforcement of the disciplinary process

7. What reason(s) were given to you for the acts you consider discriminatory? By whom? His or Her Job Title?

That reasons offered for the 8/5/2016 threats were sentences, out of context, culled from adendums, which are every employee's right, my replies to substandard evaluations and demonstrably false discipline charges, in a pattern of harrasment, over years, by Ms. Lynce and Mr. Glowczewski. The reasons given at the 6/26/17 final warning were for innocuous words that no reasonable person would find offensive in two emails to an HR rep, who was not the rep involved in the discipline, Ms. Lynce and Ms. Lerman.

8. Describe who was in the same or similar situation as you and how they were treated. For example, who else applied for the same job you did, who else had the same attendance record, or who else had the same performance? Provide the race, sex, age, national origin, religion, or disability of these individuals, if known, and if it relates to your claim of discrimination. For example, if your complaint alleges race discrimination, provide the race of each person; if it alleges sex discrimination, provide the sex of each person; and so on. Use additional sheets if needed.

Of the persons in the same or similar situation as you, who was treated *better* than you?

A. Full Name	Race, sex, age, national origin, religion or disability	Job Title
Larry Schepps	white, male, 70, US, Jewish	Staff Pharmacist
Description of Treatment Larry Schepps has frequently been rude on the phone, hanging up on nurses, has raised his voice in anger, swore at another employee and has never been formally put into correctove action. he is Jewish as is the dept manager		
B. Full Name	Race, sex, age, national origin, religion or disability	Job Title
Susan Thabit	white, female, 61,	Staff Pharmacist
Description of Treatment Ms. Thabit has made errors on the job, has frequent disagreements for fellow employees, raises her voice, throws objects at fellow employees, violates HIPAA patient privacy, but is the eyes and ears of the supervisor		

Of the persons in the same or similar situation as you, who was treated *worse* than you?

A. Full Name	Race, sex, age, national origin, religion or disability	Job Title
--------------	---	-----------

Description of Treatment

B. Full Name	Race, sex, age, national origin, religion or disability	Job Title
--------------	---	-----------

Description of Treatment

Of the persons in the same or similar situation as you, who was treated the *same* as you?

A. Full Name	Race, sex, age, national origin, religion or disability	Job Title
--------------	---	-----------

Description of Treatment

B. Full Name	Race, sex, age, national origin, religion or disability	Job Title
--------------	---	-----------

Description of Treatment

Answer questions 9-12 only if you are claiming discrimination based on disability. If not, skip to question 13. Please tell us if you have more than one disability. Please add additional pages if needed.

9. Please check all that apply:

- ☐ Yes, I have a disability
- ☐ I do not have a disability now but I did have one
- ☐ No disability but the organization treats me as if I am disabled

10. What is the disability that you believe is the reason for the adverse action taken against you? Does this disability prevent or limit you from doing anything? (e.g., lifting, sleeping, breathing, walking, caring for yourself, working, etc.).

11. Do you use medications, medical equipment or anything else to lessen or eliminate the symptoms of your disability?

Yes ☐ No ☐

If "Yes," what medication, medical equipment or other assistance do you use?

12. Did you ask your employer for any changes or assistance to do your job because of your disability?

Yes ☐ No ☐

If "YES", when did you ask? _____ How did you ask (verbally or in writing)? _____

Who did you ask? (Provide full name and job title of person)

Describe the changes or assistance that you asked for:

How did your employer respond to your request?

13. Are there any witnesses to the alleged discriminatory incidents? If yes, please identify them below and tell us what they will say. (Please attach additional pages if needed to complete your response)

A. Full Name	Job Title	Address & Phone Number
Adam Gilger	Security Guard	Unknown

What do you believe this person will tell us?

What he was told as his reason for being present in the ante-room during the discipline of 6/26/17. I believe he was there because Ms. Lynce and Ms. Lerman, who blindsided me with this on the day I returned from vacation thought that they could provoke me into saying or doing something actionable. I did nothing of the sort

B. Full Name	Job Title	Address & Phone Number
Rebecca Besselman	HR Rep	unknown

What do you believe this person will tell us?

Ms. Besselman was the recipient of the two emails used in the 6/26/2017 final warning discipline. I do not believe that she initiated the discipline over those innocuous phrases. I believe that my emails were targeted by Ms. Lynce and Ms. Lerman, maybe with full knowledge of executive administrators, members of the Compliance Department and a Pharmacy Department VP

14. Have you filed a charge previously in this matter with EEOC or another agency? Yes ☒ No ☐

15. If you have filed a complaint with another agency, provide name of agency and date of filing:

16. Have you sought help about this situation from a union, an attorney, or any other source? Yes ☐ No ☒

Provide name of organization, name of person you spoke with and date of contact. Results, if any?

Please check one of the boxes below to tell us what you would like us to do with the information you are providing on this questionnaire. If you would like to file a charge of job discrimination, you must do so either within 180 days from the day you knew about the discrimination, or within 300 days from the day you knew about the discrimination if the employer is located in a place where a state or local government agency enforces laws similar to the EEOC's laws. If you do not file a charge of discrimination within the time limits, you will lose your rights. If you would like more information before filing a charge or you have concerns about EEOC's notifying the employer, union, or employment agency about your charge, you may wish to check Box 1. If you want to file a charge, you should check Box 2.

Box 1 ☐ I want to talk to an EEOC employee before deciding whether to file a charge. I understand that by checking this box, I have not filed a charge with the EEOC. I also understand that I could lose my rights if I do not file a charge in time.

Box 2 ☒ I want to file a charge of discrimination, and I authorize the EEOC to look into the discrimination I described above. I understand that the EEOC must give the employer, union, or employment agency that I accuse of discrimination information about the charge, including my name. I also understand that the EEOC can only accept charges of job discrimination based on race, color, religion, sex, national origin, disability, age, genetic information, or retaliation for opposing discrimination.

Frank Dundee

Signature



08/19/2017

Today's Date

PRIVACY ACT STATEMENT: This form is covered by the Privacy Act of 1974: Public Law 93-579. Authority for requesting personal data and the uses thereof are:

1. **FORM NUMBER/TITLE/DATE.** EEOC Intake Questionnaire (9/20/08).
2. **AUTHORITY.** 42 U.S.C. § 2000e-5(b), 29 U.S.C. § 211, 29 U.S.C. § 626, 42 U.S.C. 12117(a), 42 USC §2000ff-6.
3. **PRINCIPAL PURPOSE.** The purpose of this questionnaire is to solicit information about claims of employment discrimination, determine whether the EEOC has jurisdiction over those claims, and provide charge filing counseling, as appropriate. Consistent with 29 CFR 1601.12(b) and 29 CFR 1626.8(c), this questionnaire may serve as a charge if it meets the elements of a charge.
4. **ROUTINE USES.** EEOC may disclose information from this form to other state, local and federal agencies as appropriate or necessary to carry out the Commission's functions, or if EEOC becomes aware of a civil or criminal law violation. EEOC may also disclose information to respondents in litigation, to congressional offices in response to inquiries from parties to the charge, to disciplinary committees investigating complaints against attorneys representing the parties to the charge, or to federal agencies inquiring about hiring or security clearance matters
5. **WHETHER DISCLOSURE IS MANDATORY OR VOLUNTARY AND EFFECT ON INDIVIDUAL FOR NOT PROVIDING INFORMATION.** Providing of this information is voluntary but the failure to do so may hamper the Commission's investigation of a charge. It is not mandatory that this form be used to provide the requested information.

UH-Dundee 0207



EQUAL EMPLOYMENT OPPORTUNITY COMMISSION INTAKE QUESTIONNAIRE

Please immediately complete the entire form and return it to the U.S. Equal Employment Opportunity Commission ("EEOC"). **REMEMBER**, a charge of employment discrimination must be filed within the time limits imposed by law, generally within 180 days or in some places 300 days of the alleged discrimination. Upon receipt, this form will be reviewed to determine EEOC coverage. **Answer all questions as completely as possible, and attach additional pages if needed to complete your response(s). If you do not know the answer to a question, answer by stating "not known." If a question is not applicable, write "n/a." Please Print.**

1. Personal Information

Last Name: Dundee First Name: Frank MI: D
 Street or Mailing Address: 7707 Amberwood Trail Apt Or Unit #: _____
 City: Boardman County: Mahoning State: Ohio ZIP: 44512
 Phone Numbers: Home: (330) 7262662 Work: (440) 2856000
 Cell: (330) 3988274 Email Address: fdundee@gmail.com
 Date of Birth: 1953 Sex: Male ☒ Female ☐ Do You Have a Disability? ☒ Yes ☐ No
 Please answer each of the next three questions. i. Are you Hispanic or Latino? ☐ Yes ☒ No
 ii. What is your Race? Please choose all that apply. ☐ American Indian or Alaska Native ☐ Asian ☒ White
☐ Black or African American ☐ Native Hawaiian or Other Pacific Islander
 iii. What is your National Origin (country of origin or ancestry)? USA

Please Provide The Name Of A Person We Can Contact If We Are Unable To Reach You:

Name: Patricia Dundee Relationship: spouse
 Address: 7707 Amberwood Trail City: Boardman State: OH Zip Code: 44512
 Home Phone: (330) 7262662 Other Phone: (330) 5405995

2. I believe that I was discriminated against by the following organization(s): (Check those that apply)

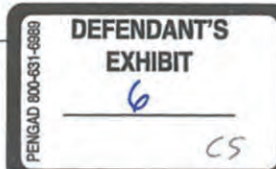
☒ Employer ☐ Union ☐ Employment Agency ☐ Other (Please Specify) _____

Organization Contact Information (If the organization is an employer, provide the address where you actually worked. If you work from home, check here ☐ and provide the address of the office to which you reported.) **If more than one employer is involved, attach additional sheets.**

Organization Name: University Hospitals Geauga Medical Center
 Address: 13207 Ravenna Road County: Gauga
 City: Chardon State: OH Zip: 44024 Phone: (440) 2856000
 Type of Business: hospital Job Location if different from Org. Address: _____
 Human Resources Director or Owner Name: Danialle Lynce Phone: 4402856000
 Number of Employees in the Organization at All Locations: Please Check (✓) One
☐ Fewer Than 15 ☐ 15 - 100 ☐ 101 - 200 ☐ 201 - 500 ☒ More than 500

3. Your Employment Data (Complete as many items as you can) Are you a Federal Employee? ☐ Yes ☒ No

Date Hired: 05/02/2010 Job Title At Hire: staff pharmacist
 Pay Rate When Hired: \$55.00/hr Last or Current Pay Rate: \$64.00/hr
 Job Title at Time of Alleged Discrimination: staff pharmacist Date Quit/Discharged: _____
 Name and Title of Immediate Supervisor: Rachael Lerman



UH-Dundee 0208

If Job Applicant, Date You Applied for Job _____ Job Title Applied For _____

4. What is the reason (basis) for your claim of employment discrimination?

FOR EXAMPLE, if you feel that you were treated worse than someone else because of race, you should check the box next to Race. If you feel you were treated worse for several reasons, such as your sex, religion and national origin, you should check all that apply. If you complained about discrimination, participated in someone else's complaint, or filed a charge of discrimination, and a negative action was threatened or taken, you should check the box next to Retaliation.

☐ Race ☐ Sex ☐ Age ☐ Disability ☐ National Origin ☐ Religion ☒ Retaliation ☐ Pregnancy ☐ Color (typically a difference in skin shade within the same race) ☐ Genetic Information; choose which type(s) of genetic information is involved:

☐ i. genetic testing ☐ ii. family medical history ☐ iii. genetic services (genetic services means counseling, education or testing)

If you checked color, religion or national origin, please specify: _____

If you checked genetic information, how did the employer obtain the genetic information? _____

Other reason (basis) for discrimination (Explain). _____

5. What happened to you that you believe was discriminatory? Include the date(s) of harm, the action(s), and the name(s) and title(s) of the person(s) who you believe discriminated against you. Please attach additional pages if needed.

(Example: 10/02/06 - Discharged by Mr. John Soto, Production Supervisor)

A) Date: 06/26/17 Action: I was called to HR, by Ms. Lynce and Ms. Lerman, given a final warning discipline, remanded to the EAP program for session on remediation, under UH employee policy

Name and Title of Person(s) Responsible: Danialle Lynce, Rachael Lerman

B) Date: _____ Action: _____

Name and Title of Person(s) Responsible: _____

6. Why do you believe these actions were discriminatory? Please attach additional pages if needed.

The employer has no interest in obtaining a diagnosis of a mental health condition; the mandated EAP counseling sessions, which includes a 3 hour psychiatric examination, is neither job-related nor consistent with business necessity. Ms. Lerman and Ms. Lynce, in effect, weaponized the EAP in order to intimidate, harass and embarrass me; this was especially egregious when looking at the manufactured reasons for the discipline, which were retaliation for my filing sexual harassment charges against Ms. Lerman, which amounted an adverse action against an EEO protected activity.

7. What reason(s) were given to you for the acts you consider discriminatory? By whom? His or Her Job Title?

The reasons were over three innocuous phrases that in two emails to an HR representative: "you're a good kid", "he's a pup with little experience", and "a nice boy, but..". No reasonable person would find those phrases offensive in any way. The recipient, who was an HR representative, did not raise an issue with those phrases. This provides evidence that my emails were targeted. Mandating me for remediation with multiple EAP sessions, which amounted to a medical exam, as well as a 3 hour psychiatric exam, all under the threat of termination, violate ADA public policy in regards to allowable medical examinations by an employer.

8. Describe who was in the same or similar situation as you and how they were treated. For example, who else applied for the same job you did, who else had the same attendance record, or who else had the same performance? Provide the race, sex, age, national origin, religion, or disability of these individuals, if known, and if it relates to your claim of discrimination. For example, if your complaint alleges race discrimination, provide the race of each person; if it alleges sex discrimination, provide the sex of each person; and so on. Use additional sheets if needed.

Of the persons in the same or similar situation as you, who was treated better than you?

A. Full Name	Race, sex, age, national origin, religion or disability	Job Title
Jill Spuzullo	whiet, female	pharmac tech
Description of Treatment Ms. Spuzullo was mandated to attend multiple EAP sessions even though she had outstanding performance in her duties as a pharmacy tech. Ms. Lerman used the EAP as a means to discourage and degrade Ms. Suzullo, who resigned.		
B. Full Name	Race, sex, age, national origin, religion or disability	Job Title
Description of Treatment		

Of the persons in the same or similar situation as you, who was treated *worse* than you?

A. <u>Full Name</u>	<u>Race, sex, age, national origin, religion or disability</u>	<u>Job Title</u>
---------------------	--	------------------

Description of Treatment

B. <u>Full Name</u>	<u>Race, sex, age, national origin, religion or disability</u>	<u>Job Title</u>
---------------------	--	------------------

Description of Treatment**Of the persons in the same or similar situation as you, who was treated the *same* as you?**

A. <u>Full Name</u>	<u>Race, sex, age, national origin, religion or disability</u>	<u>Job Title</u>
---------------------	--	------------------

Description of Treatment

B. <u>Full Name</u>	<u>Race, sex, age, national origin, religion or disability</u>	<u>Job Title</u>
---------------------	--	------------------

Description of Treatment

Answer questions 9-12 only if you are claiming discrimination based on disability. If not, skip to question 13. Please tell us if you have more than one disability. Please add additional pages if needed.

9. Please check all that apply:

- ☐ Yes, I have a disability
- ☐ I do not have a disability now but I did have one
- ☐ No disability but the organization treats me as if I am disabled

10. What is the disability that you believe is the reason for the adverse action taken against you? Does this disability prevent or limit you from doing anything? (e.g., lifting, sleeping, breathing, walking, caring for yourself, working, etc.).

11. Do you use medications, medical equipment or anything else to lessen or eliminate the symptoms of your disability?

Yes ☐ No ☐

If "Yes," what medication, medical equipment or other assistance do you use?

12. Did you ask your employer for any changes or assistance to do your job because of your disability?

Yes ☐ No ☐

If "YES", when did you ask? _____ How did you ask (verbally or in writing)? _____

Who did you ask? (Provide full name and job title of person)

Describe the changes or assistance that you asked for:

How did your employer respond to your request?

13. Are there any witnesses to the alleged discriminatory incidents? If yes, please identify them below and tell us what they will say. (Please attach additional pages if needed to complete your response)

A. Full Name	Job Title	Address & Phone Number
David Riccardi	EAP counselor	216-286-9980

What do you believe this person will tell us?

Mr. Riccardi is an EAP counselor. He can tell the EEO investigator how UH incorporates the EAP counseling sessions into the progressive discipline

B. Full Name	Job Title	Address & Phone Number
Rebecca Besselman	Hr representative	440285600

What do you believe this person will tell us?

14. Have you filed a charge previously in this matter with EEOC or another agency? Yes ☒ No ☐

15. If you have filed a complaint with another agency, provide name of agency and date of filing:

16. Have you sought help about this situation from a union, an attorney, or any other source? Yes ☐ No ☒

Provide name of organization, name of person you spoke with and date of contact. Results, if any?

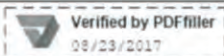
Please check one of the boxes below to tell us what you would like us to do with the information you are providing on this questionnaire. If you would like to file a charge of job discrimination, you must do so either within 180 days from the day you knew about the discrimination, or within 300 days from the day you knew about the discrimination if the employer is located in a place where a state or local government agency enforces laws similar to the EEOC's laws. If you do not file a charge of discrimination within the time limits, you will lose your rights. If you would like more information before filing a charge or you have concerns about EEOC's notifying the employer, union, or employment agency about your charge, you may wish to check Box 1. If you want to file a charge, you should check Box 2.

Box 1 ☐ I want to talk to an EEOC employee before deciding whether to file a charge. I understand that by checking this box, I have not filed a charge with the EEOC. I also understand that I could lose my rights if I do not file a charge in time.

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Frank Dundee

Signature



08/23/2017



Today's Date

PRIVACY ACT STATEMENT: This form is covered by the Privacy Act of 1974: Public Law 93-579. Authority for requesting personal data and the uses thereof are:

1. FORM NUMBER/TITLE/DATE. EEOC Intake Questionnaire (9/20/08).
2. AUTHORITY. 42 U.S.C. § 2000e-5(b), 29 U.S.C. § 211, 29 U.S.C. § 626. 42 U.S.C. 12117(a), 42 USC §2000ff-6.
3. PRINCIPAL PURPOSE. The purpose of this questionnaire is to solicit information about claims of employment discrimination, determine whether the EEOC has jurisdiction over those claims, and provide charge filing counseling, as appropriate. Consistent with 29 CFR 1601.12(b) and 29 CFR 1626.8(c), this questionnaire may serve as a charge if it meets the elements of a charge.
4. ROUTINE USES. EEOC may disclose information from this form to other state, local and federal agencies as appropriate or necessary to carry out the Commission's functions, or if EEOC becomes aware of a civil or criminal law violation. EEOC may also disclose information to respondents in litigation, to congressional offices in response to inquiries from parties to the charge, to disciplinary committees investigating complaints against attorneys representing the parties to the charge, or to federal agencies inquiring about hiring or security clearance matters
5. WHETHER DISCLOSURE IS MANDATORY OR VOLUNTARY AND EFFECT ON INDIVIDUAL FOR NOT PROVIDING INFORMATION. Providing of this information is voluntary but the failure to do so may hamper the Commission's investigation of a charge. It is not mandatory that this form be used to provide the requested information.

UH-Dundee 0211

EEOC Form 5 (11/09)

CHARGE OF DISCRIMINATION <small>This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.</small>		Charge Presented To: _____ Agency(ies) Charge No(s): _____ <input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC 533-2017-01275	
Ohio Civil Rights Commission and EEOC <small>State or local Agency, if any</small>			
Name (Indicate Mr., Ms., Mrs.) Mr. Frank D. Dundee		Home Phone (Incl. Area Code) (330) 726-2662	Date of Birth 1953
Street Address 7707 Amberwood Trail, Boardman, OH 44512			
Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)			
Name UNIVERSITY HOSPITALS GEUAGA MEDICAL CENTER		No. Employees, Members 500 or More	Phone No. (Include Area Code) (440) 285-6000
Street Address 13207 Ravenna Road, Chardon, OH 44024			
Name _____		No. Employees, Members _____	Phone No. (Include Area Code) _____
Street Address _____			
DISCRIMINATION BASED ON (Check appropriate box(es).) <input type="checkbox"/> RACE <input type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN <input checked="" type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input checked="" type="checkbox"/> DISABILITY <input type="checkbox"/> GENETIC INFORMATION <input type="checkbox"/> OTHER (Specify) _____		DATE(S) DISCRIMINATION TOOK PLACE Earliest Latest 06-26-2017 06-26-2017 <input type="checkbox"/> CONTINUING ACTION	
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)): <p>I have been employed by the above-named Respondent since 2010 as a Staff Pharmacist. On 6/26/17, I received a final written warning for phrases written in two emails to a HR representative regarding implementation of suggestion for the innovation Summit. The written phrases were deemed to violate Respondent's Code of Conduct by the Head of HR Danialle Lynce and the Pharmacy Manager, Rachael Lerman. Both were not recipients of the email.</p> <p>Under threat of termination, I was mandated to attend counseling sessions in the EAP program. The EAP counseling sessions amounted to a medical examination that was not related to my job nor consistent with the Respondent's business needs under EEO rule and the ADA.</p> <p>I believe I am being discriminated against in violation of Title I of the Americans with Disabilities Act of 1990, as amended, (ADA). I also believe I am being retaliated against in violation of Title VII of the Civil Rights Act of 1964, as amended, (Title VII) due to my participation in a protected activity.</p>			
I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.		NOTARY - When necessary for State and Local Agency Requirements	
I declare under penalty of perjury that the above is true and correct.		I swear or affirm that I have read the above and that it is true to the best of my knowledge, information and belief.	
Date 08-14-19		SIGNATURE OF COMPLAINANT 	
Charging Party Signature 		SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year) SEP 19 2017 CLFO EEOC	

PENGAD 900-631-6989

**DEFENDANT'S
EXHIBIT**
7

CS

UH-Dundee 0212

**OHIO CIVIL RIGHTS COMMISSION
CHARGE OF DISCRIMINATION (EMPLOYMENT)**

ALH

OCRC Case Number: CLE B4 (44821) 08222018

EEOC Case Number:

Your Name

Frank Dundee

Your Street Address

7707 Amberwood Trail

City, State and Zip

Boardman, Ohio 44512

Telephone Number

3303988274

Alternate Number (Optional)

3307262662

Email Address (Optional)

fdundee@gmail.com

Company Name

University Hospitals Geauga Medical

Company Street Address

13207 Ravenna Rd

City, State and Zip

Chardon, Ohio 44024

County (if located in Ohio)

Gauga

Telephone Number

4402856000

of Employees

28.000

Date of Hire

5/1/2010

RECEIVED

SEP 06 2018

OCRC - INTAKE
CLEVELAND

Dates of Discrimination (MM/DD/YYYY): 3/21/2018 thru 8/21/2018

I was discriminated on the basis of:

Race/Color

Sex

☒ Disability (DO NOT LIST DISABILITY)

Age (over 40 years old only)

Religion

National Origin/Ancestry

Military Status

Retaliation (for protesting discrimination)

Please identify how you are a member of the category you marked on the left: (If you marked **AGE**, please list your **BIRTH DATE**. If you have marked **DISABILITY**, **DO NOT IDENTIFY** your disability.)
I have a disability

RECEIVED

AUG 22 2018

OCRC - INTAKE
CLEVELAND

Please read and review the following:

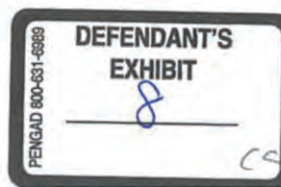
I have not commenced with any action under sections 4112.14 or 4112.02(N) of the Ohio Revised Code with respect to the subject matter of the affidavit. I understand that upon filing of this charge with the Ohio Civil Rights Commission, I am barred from instituting any such civil action and that any monetary award or financial benefit I may receive may be limited to back pay and/or restoration of employment fringe benefits and may not include other damages to which I may be entitled as a result of such civil action.

I am filing a charge alleging AGE DISCRIMINATION and I have read and understand the above information.

☐ I am NOT filing a charge alleging AGE DISCRIMINATION and this does not apply to me.

Page: 1 of 4

UH-Dundee 0276



Charging Party: Frank Dundee

ALH

Case Number: CLE B4 (44821) 08222018

Act of Discrimination #1

Date of Discrimination (MM/DD/YYYY): 08/21/2018

I was subjected to (mark only one issue):

- a denial of promotion
- a forced resignation
- demotion
- denial of hire
- ☒ denial of a reasonable accommodation
- different terms and conditions of employment
- discharge/termination
- discipline
- harassment/sexual harassment
- layoff
- other

I believe it was because of my:

- Race/Color
- Sex
- ☒ Disability
- Age
- Religion
- National Origin/Ancestry
- Military Status
- Protected activity (retaliation)

RECEIVED

SEP 06 2018

OCRC - INTAKE
CLEVELAND

If you have marked "other", please briefly describe the discriminatory act:

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AUG 22 2018

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CLEVELAND

The reason given by the company for this action is:

The company, University Hospitals, refused to informally discuss my request(s) for a reasonable accommodation, even though my disability is obvious, forcing me to comply with their internal policy which violates Title I of the ADA rules on reasonable accommodation.

I was given this reason by (name and position):

Debbi Templin, CPDM, ARM Director, Disability & Occupational Risk Control Services, Heather Harmon, JD, PHR, SHRM-CP, Vice President, Human Resources & Organizational Development University Hospitals

I am aware of others treated more favorably than me including:

Lisa Farah

I believe that this was discrimination because:

I am perceived as a troublesome employee, in spite of the fact that my job performance is exemplary, both objectively and subjectively, when compared across all University Hospitals facilities. I believe this discrimination is retaliation for speaking truth to power; for making a complaint to OSHA and complaints to the EEOC, over a period of years. Because of this, my request for reasonable accommodation was rejected without discussion, through an internal University Hospitals policy.

Charging Party: Frank Dundee

ALH

Case Number: CLE B4 (44821) 08222018

Act of Discrimination #2 (Optional)

Date of Discrimination (MM/DD/YYYY):

I was subjected to (mark only one issue):

a denial of promotion
a forced resignation
demotion
denial of hire
denial of a reasonable accommodation
different terms and conditions of employment
discharge/termination
discipline
harassment/sexual harassment
layoff
other

I believe it was because of my:

Race/Color
Sex
Disability
Age
Religion
National Origin/Ancestry
Military Status
Protected activity (retaliation)

If you have marked "other", please briefly describe the discriminatory act:

RECEIVED

SEP 06 2018

OCRC - INTAKE
CLEVELAND

The reason given by the company for this action is:

RECEIVED

AUG 22 2018

OCRC - INTAKE
CLEVELAND

I was given this reason by (name and position):

I am aware of others treated more favorably than me including:

I believe that this was discrimination because:


Charging Party: Frank Dundee

ALH

Case Number: CLE B4 (44821) 08222018

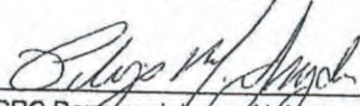
Please check to indicate you have read and agreed to the statements below.

- ✓ I understand that I will not be able to sign this form on-line. A copy will be mailed out to me for a notarized signature. An investigation will not begin until the Ohio Civil Rights Commission receives a signed and notarized charge from me.
- ✓ I declare under penalty of perjury that I have read the above charge and that it is true to the best of my knowledge, information and belief. I will advise the agency/agencies if I change my address or telephone number and that I will cooperate fully in the processing of my charge in accordance to their procedures.


Charging Party

9.2.2018
Date

Subscribed and sworn to before me on this 2nd day of September of 20 18



OCRC Representative or Notary
Philip M. Snyder, Esq.
Attorney At Law, OH 0071672
Notary Public, State of Ohio
My Commission has no
expiration date 3147.03 R.C.

RECEIVED

SEP 06 2018

OCRC - INTAKE
CLEVELAND

RECEIVED

AUG 22 2018

OCRC - INTAKE
CLEVELAND

Cell Phone Dock

Please don't adjust
volume or turn
phone off please
& thank you

This note insults my intelligence and I request that you remove it.

This is the second such note to appear.

If the outpatient pharmacy is having issues missing prescriptions or calls, the problem lies solely within the outpatient pharmacy. Your note infers that the reasons there are issues missing prescriptions or calls may have something to do with inpatient staff using that phone.

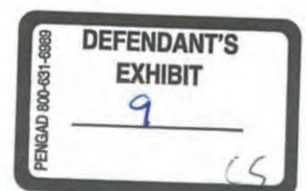
Who even knows that it's there and why in God's name would we adjust the volume or turn it off? Maybe you need to request a better phone or examine the process for receiving Rx's.

I have to tube meds all night long and every time I pass by, I see it.

I find it particularly insulting and irritating, and it distracts me from patient care.

I respectfully ask that the note be removed. Forever.

Frank Dundee R.Ph.



7/2016 - New Policy goes into effect. See memo for 7/10/16 switch to new KRONOS TIMEKEEPING EXCEPTION LOG processes. See Rachael for your blinded emp # for list on door.

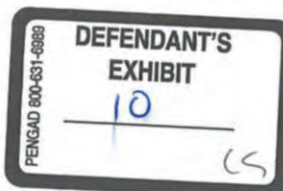
Department Name/# Pharmacy

130-48030 RX
130-48000
130-48035

Pay Period Start
Pay Period End

DATE	EMPLOYEE NAME	MISSED PUNCH		OFF-SITE HOURS		Any other exceptions PTO, Jury Duty, Bereavement, Float, etc. Pay Code Hours	APPRO VAL
		IN TIME	OUT TIME	IN TIME	OUT TIME		
7-8-16	Tina					Chemo & omelet No lunch - dinner	
7-8-16	Laura Sarkis	2 PM	9:15 PM				
7-9-16	Susan					1 hr schedule	
7-9-16	Glen					No lunch (evening)	
7-9-16	Ben					No lunch	
7-11	Rich					No lunch	
7-11	Nich					No lunch	
7-11	Susan					No lunch	
7-11	Rich					Left at 10:15	
7-11	Susan					Left at 10:20	FD
7-11	Tina					No lunch	

She forced this to 4:15 12/8!



KRONOS TIMEKEEPING EXCEPTION LOG

Pay Period Start _____
Pay Period End _____

Pay Period End

left early / Sunday
10 min



7/2016 - New Policy goes into effect. See memo for 7/10/16
 switch to new KRONOS TIMEKEEPING EXCEPTION LOG hospital & dept
 processes. See Rachael for your blinded emp # for list on door.

Department Name / # Pharmacy

130-48030 RX
 130-48000
 130-48035

Pay Period Start
 Pay Period End

DATE	EMPLOYEE NAME	MISSED PUNCH		OFF-SITE HOURS		Any other exceptions PTO, Jury Duty, Bereavement, Float, etc. Pay Code Hours	APPRO VAL
		IN TIME	OUT TIME	IN TIME	OUT TIME		
12-9-16	Macielyn					Punched at 10:50am	✓
12-9	Glean					No lunch	
12-8	Prick					No lunch	
12-18	Prick					No lunch	
12-10	Glean					No lunch	
12-11	Tina					called in no lunch	
12-11	Glean					No lunch	
12/11/16 Frank punch in 2116 extremely hazardous road conditions. I feel that UH should pay me for travel time under the conditions							
12/11/16	Found in breakroom at 9:30pm - Pilled down and blank						
	one hung up - Plemar						
12/12/16							

